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ART. I.—*Theorie du Navire par le MARQUIS DE POTERAT, Chevalier de l'ordre Royal et Militaire de St. Louis, Capitaine de Vaisseau, &c. &c.* Paris, 1826, chez Didot, 2 vols. 4to. pp. 384 and 456.

OF all the objects of art, none appears, upon the first view, to give so high an idea of the extent of human power, as the Ship. It is, indeed, the most difficult achievement of the genius of man. The very act of launching a raft upon a peaceful lake, must, in the first instance, have required an effort of courage.

"Illi robur et æs triplex
Circa pectus erat, qui fragilem truci
Commisit pelago ratem
Primus, _____"

But how great is the interval between this rude attempt, and that state of art which constructs the Indiaman, or the first rate ship of the line! the one capable of bearing a vast cargo, of supporting the violent efforts of the winds and waves, and guided by scientific methods of pursuing its undeviating way, although for months out of sight of the land; the other, in addition, loaded with the artillery of a fortress, teeming with a legion of valiant spirits—the most formidable of all offensive means furnished by the improved arts of modern warfare.

One branch of nautical science may indeed be considered as having in our own days attained a state, which leaves so little apparent room for improvement, that it may almost be called perfection. We mean that part which teaches to determine the

place of the ship, for the purpose of choosing the proper course to its destined port, or enabling it to shun the dangers it is exposed to on approaching the shore.

Such is the progress made in the construction of astronomical tables, in the manufacture of instruments, and in the methods of observation, that no uncertainty ought to remain in relation to the vessel's place, except when the sky is obscured ; and the loss of a vessel, from ignorance of its true position, has become in truth a crime, and as such deserves punishment. For this happy state of things, the mariner is indebted to persons of other professions than his own. The researches necessary to attain it, may fortunately be performed independently of nautical skill ; and thus it is to the patient observer of astronomic phenomena, the laborious calculator of the motions of the heavenly bodies, and the ingenious framer of delicate instruments, that they are to be ascribed. The arts of naval architecture, and mere seamanship, if at first sight more simple, than those which rest on astronomy, are, when closely examined, far more difficult. A much greater variety of knowledge is requisite to advance them beyond their present state, than need be devoted to the other department ; and it rarely or never happens, that this knowledge can be united in a single individual. The strength and mode of combination of the materials, the forms of greatest stability and least resistance, the proper position and magnitude of the masts and yards, the trim of the sails, the manner of guidance, by which, on particular courses, vessels may oustrip the wind itself, are indeed, strictly speaking, investigations within the reach of science. But this science is not purely mathematical ; it must rest for its basis on physical experiments, and those which the philosopher can perform in his closet, are neither sufficiently varied, nor upon such a scale as to afford a suitable foundation. The sea itself must be navigated, its action on vessels practically known, as well as that of the winds ; and the mathematician should possess as preliminary knowledge, the practical acquirements of the veteran navigator. Few men, however, who devote themselves to mathematical study, have either the power or the inclination to attain this practical skill ; while on the other hand, few nautical men have that preparation, growing out of mathematical knowledge, which will qualify them, to observe and apply to useful purposes, the phenomena they may witness on the ocean. In addition, the ship builder rarely possesses any great extent of science, and still more seldom a practical acquaintance with the manner in which his structures perform their allotted task ; he, generally speaking, copies servilely the models and framing of his predecessors, or changes them without an enlightened purpose, at his own pleasure, or according to the suggestion of the nautical man, equally deficient with himself in the scientific part of his trade.

It is to these causes that we must attribute the different impressions produced upon us, at the first view of the finished vessel, equipped and manned, and spreading its canvass to the wind, and upon a more close examination of its parts. We then discover inherent causes of weakness, that bring about the destruction of the ship, long before that could be effected by the natural decay of its perishable materials ; framings combined in an unartistlike manner ; the strength of the materials ill distributed in the same vessel, and rarely proportioned to the varying sizes of different vessels ; in short, multiplied errors, easy of detection, but of which the remedy is not as readily discovered. Some of these, however, are already within the reach of scientific inquiry, and many others will be brought to light by the more careful cultivation of the theory.

The qualities to be combined in a good ship are numerous, and in many respects so opposite, that it is generally considered necessary to sacrifice some of them to obtain the others. For whatever purpose a vessel is intended, it must always bear a great burthen, composed of its cargo, whether mercantile, or military, and the weight of its own materials ; it must be strong and solidly built, in order to resist the effort of the several forces that are constantly acting upon it ; it must be impermeable to the fluid in which it floats, lest by entering in too great quantities, the articles embarked should be injured, or the vessel actually sunk by its weight ; it should have a shape and distribution of parts, that will allow it to obtain the greatest possible velocity, and to manœuvre with the greatest readiness, so that, if a merchant vessel, it may perform its voyages with proper speed, and if a ship of war, may seek, or avoid an engagement at pleasure, and choose a favourable position in respect to its enemy ; its hull must be sufficiently capacious to contain all the articles it is intended to transport, and to provide for the comfortable lodgment of its crew : it must possess stability, or have the property of restoring itself to an upright position, when made to deviate therefrom by the action of the wind or other extrinsic forces ; its two opposite sides must be exactly similar, not only in bulk, but in weight ; and in the case of a ship of war, it must carry its artillery in such a way, that the guns may be easily served, and that the water may not enter through the ports, when the vessel heels under the effort of the wind ; it must not be liable to violent rolling, or pitching, by which, in an agitated state of the water, the masts might be carried away, or seas shipped, that, entering at the hatches, would destroy the comfort of the crew, damage the cargo, or even sink the vessel.

To combine and unite such properties in a perfect manner, is a task that would require the union of consummate experience, and the most profound science ; but rarely have these been com-

bined, in the efforts which have been made to improve naval science. The construction of ships has, for the most part, been confided to mere workmen; their navigation to nautical men, exposed from their youth to the dangers of the sea, and who, worn out by the fatigues of their laborious profession, have neither the leisure nor the tranquillity of mind necessary for the study of the extensive and complicated science in which the principles of their art are to be sought; the theory is, on the other hand, cultivated by those alone, who, from the very nature of their pursuits, instinctively shun the fatigues, inquietudes, and dangers in which the seaman passes his life. We may thus easily conceive how it happens, that the theory of naval architecture and seamanship is still far behind the practice, and that improvements in the structure and navigation of ships, have grown rather out of observations on the accidental properties of vessels of different forms and constructions, than from the cultivation of scientific principles. Still, we are not to be ungrateful for the assistance which has been drawn in these observations from the investigations of scientific persons, who have facilitated the methods of discovering and applying remedies proper for the defects of some vessels, and of ascertaining to what particular features in others their good properties were owing. To them too, we are indebted for rules and principles which will direct and limit the variations that may safely be made in the models at present in use, and guide us in the draught of new ones, suited to those changes in the force and magnitude of the several rates of vessels, which are continually making, in the strife between the various nations of the civilized world, in respect to the good qualities of their ships of war. Such, in truth, is the value of scientific inquiry in this important branch of the useful arts, that those nations who have been most ready to adopt in practice, the suggestions of science, have uniformly possessed ships the best suited for sailing and fighting, and the least liable to the dangers of the sea. Of this we have a most marked illustration in the long contest for naval supremacy between France and England; the former nation having, from the close of the war of 1756, nearly down to that of the American war, baffled the fleets of England, and reaped all the advantages that would have flowed from actual victories, by the superiority of their ships in speed, and readiness of manœuvre; nor was this advantage lost, except by an entire change in the system of naval tactics, which diminished for the moment, the importance of these qualities, and brought into play the more practised seamanship of the English. Throughout this period, we constantly find the French, after doubtful engagements, in which the apparent honour rather inclined to the side of their enemy, striking the severest blows upon the British colonies and commerce; and it appears now to be admitted, that

had the new tactics been fully understood and anticipated, and been met with a corresponding change of disposition, the advantages they derived from the structure of their vessels, might still have been maintained. This remarkable change in naval tactics is now allowed, upon all hands, to have been the result of the abstract reasonings of a landsman, (Clerk, of Eldin). It was cautiously and almost reluctantly followed by seamen, and was first implicitly and unreservedly adopted by Nelson, who, at the Nile and Trafalgar, showed the wonderful effects of which it was capable.

The Spaniards imitated the French in the application of science to their naval affairs, and thus, in the wars of the French Revolution, their ships were remarkable for a combination of all the good qualities both of French and English naval architecture, of which the most remarkable instance is to be found in the *Santissima Trinidad*, a ship of four decks, uniting vast force, to speed and stability, and built at a time when the French had almost abandoned, in despair of success, the construction of ships even of three decks; and when English ships of the second rate were so deficient in the necessary qualities, as to be by no means a fair match for the larger class of French two-decked ships, under equal circumstances of crew and officers.

The first instance we meet, of an attempt to apply the principles of theoretic mechanics to the nautical arts, is that of Pardies, in 1673, who, in a treatise on statics, inserts as a problem, the method of determining the course of a vessel, acted upon by a lateral wind. He was followed by the chevalier Renau, in 1689, who proceeded upon the same basis as the former author, but who adopted, in addition, the received doctrine, that the resistances of fluids to surfaces, was in the ratio of the squares of the velocities, and of the squares of the sines of the angles at which the fluid struck the surfaces. We shall have occasion hereafter to point out the error of this doctrine. The publication of Renau's work, led to an investigation of his theory by the celebrated Huygens, and in the discussion that ensued, James and John Bernouilli took an active part. The work of the latter of these two distinguished brothers, published by him at Basle, in 1714, is a brilliant example of mathematical skill, but has not for its basis a sufficient theory derived from experiment. It is therefore hardly susceptible of any practical application.

Passing over a variety of writers of inferior note, we proceed to the treatises of Bouguer upon the masts of vessels, published in 1727, and upon the construction and motion of vessels, printed in 1746. The first of these, although derived from more correct principles, than the works of previous authors, contained deductions which are impracticable in their application, but the second is of a much more valuable character. The extent of the

work, the close and particular examination it contains of all the circumstances connected with the art of which he treats, the beautiful simplicity of his geometrical solutions, adapted to the study of the least informed in mathematics, are such as to have acquired for him at once a high reputation throughout all Europe. Bouguer was a teacher of hydrography in the French seaport of Havre-de-Grace, and his own country was the first to derive fruit from his investigations. And in truth it may be said, that, had he joined more of practical acquaintance with maritime affairs, to his mathematical skill, he might, with his marked zeal and perseverance, have produced a work, that would probably have left little to be performed by his successors. Indeed, the greater part of the practical writers on ship-building, seem to have been satisfied with the investigations of Bouguer.

In the year 1749, the celebrated Euler gave to the world his great work "*Scientia Navalis*." This treatise is remarkable, not only for its value in the advancement of the theory of vessels, but as a model of well ordered and correct mathematical investigation. And if, from the same want of experimental basis that has been remarked in the instances of Bernouilli and Bouguer, it be not perfect, it still serves, and will probably always serve, as an example of the best manner in which such inquiries should be conducted. Finally, in 1771, appeared the *Examen Maritimo* of Don George Juan. This author is better known to most readers, as the companion of the French academicians who measured a degree of the meridian in Peru, and has been recently brought anew to the notice of the world, by the publication, in Madrid, of his private official reports to the Spanish government, upon the condition and prospects of their South American colonies. He alone, of all writers upon the subject, appears to have possessed, in an equal degree, scientific knowledge and practical skill. He may be ranked in point of learning, with the ablest mathematicians and philosophers of Europe; and being by profession a seaman, holding a high rank in the navy of Spain, he had every opportunity of testing the accuracy of the theories of former writers, by the sure criterion of actual experiment, and of making observations that should serve as the basis of one more accurate. His work is therefore a much more perfect theory of the construction and manœuvre of vessels, than can be found in any previous author; his mathematical investigations furnish results much more conformable to the facts that occur in practice; while he deduces from them many practical rules of the greatest value and importance.

The *Examen Maritimo* was translated into the French language by *Leveque*, and published in 1783, and still continues to attract the attention of all who take an interest in the important subjects of which it treats.

In addition to the above continental writers, we have to mention, as having aided in extending and improving the theory, at different times, the English names of M'Laurin and Atwood.

The work before us is principally composed of a new translation of the *Examen Maritimo*, corrected however, and improved in many important points; and M. Poterat has also given many valuable additions that are entirely original. The most important of these has reference to the action of the wind upon the sails of vessels, whence he has deduced rules for trimming them in oblique courses, entirely contrary both to the received theories and ordinary practice. An important difference is also found in the concluding part of the work, which contains a collection of the theoretic principles, with their application to practical points. In the *Examen Maritimo*, Juan devotes this portion of his treatise more especially to the instruction of the builders of ships; our author has, on the other hand, restricted himself almost exclusively to rules for their management and manœuvres. M. Poterat has shown himself, in this work, to possess, in an equal degree with his predecessor Don George Juan, all the requisites necessary for treating successfully a subject of such difficulty and importance; he exhibits at every step his intimate acquaintance with mathematical and physical science, while he draws largely from his experience as a seaman, in order to illustrate and confirm his theory by practical instances. His work, therefore, may be perused with pleasure by those whose taste confines their studies to the pure mathematics, will aid those who cultivate experimental philosophy, and cannot fail to be of the greatest service, as a preparatory study, to those who mean to devote themselves to naval affairs as a profession. We are, in truth, of opinion, that the acquisition of nautical skill, although it can never be effected by mere study of theory, may be much accelerated by a previous acquaintance with sciences having with it an immediate or remote connexion.

Fully impressed with this truth, we shall endeavour to draw the attention of our readers to this work, and those of similar character, by a brief exposition of the theory it contains, and a synopsis of a few of its practical applications.

Most of the valuable properties of vessels are derived from the peculiar position in which they are placed in respect to the waters in which they float, by whose pressure they are supported, and to the air, to whose action the greater part of their surface is exposed. Were they entirely confined to one of these fluids, wholly supported in the air, or wholly immersed in the water, their motion and guidance would be attended with far greater difficulties. A submarine vessel, that shall, at the will of its navigator, rise to the surface, or sink to the bottom, is no difficult achievement; this much has been successfully effected by

Bushnell and Fulton; but to give it a motion and direction different from that of the fluid, is yet a desideratum in mechanics. Fish, endowed with great muscular power, with an admirably contrived apparatus, which acts powerfully upon the water in one direction, while its influence in the other is hardly perceptible, may indeed be rapidly propelled through the water; but we neither know of any adequate artificial substitute for the energy of their muscles, nor any modification of mechanic powers, that will produce a similar motion in an inert and lifeless mass. In the case of birds, the imitation is still less practicable; they are supported wholly by their own muscular strength, applied to their wings, instead of deriving buoyancy, like fish, from the fluid in which they move. Aeronauts then have been compelled to resort to the less difficult imitation of aquatic animals, by rendering their apparatus capable of rising or sinking in the air by a difference in its specific gravity. The usual modes of propelling vessels, are ineffectual in both these cases; oars, paddle wheels, and sails, are alike inapplicable. Oars have a reciprocating motion, and act, while moving in one direction, upon the water, while they return through the air to their primitive position, in respect to the vessel. Wheels, although revolving continuously, perform the greater part of their rotation in the lighter fluid. In both cases then, the vessel is propelled by a power equivalent to the difference of the resistances that the air and water oppose to the motions of the apparatus. But the application of sails is still more scientific; in consequence of the greater density of water, the vessel has a tendency rather to remain at rest in respect to it than to the air, and hence, as the latter is almost constantly in motion, with a velocity different from that of the water, it will act powerfully upon sails spread so as to intercept its currents; so powerfully indeed, that cases occur in practice, where the velocity of the vessel may exceed that of the wind itself.

The two important points to be considered in the theory of ships, are their conditions of equilibrium, or stability, and their motion. Any floating body whatever, will remain in equilibrium at the surface of a fluid, when the part immersed displaces a mass of the fluid equal in weight to that of the whole vessel with its cargo and equipment, and when in addition the centre of magnitude of the part immersed, and the centre of gravity of the whole vessel with its load, are in the same vertical line. Until the former condition is attained, the vessel will oscillate on each side of the horizontal surface of the water, while to fulfil the latter, she will turn around a horizontal axis. A vessel then will, in a few moments after she is launched, assume the position of equilibrium; and, as the cargo and equipment are laden, will be gradually immersed, so as to maintain and preserve that state.

In the case of a solid body, supported by a prop of the same na-

ture, there exist three different states or conditions of equilibrium; the centre of gravity may be vertically above the point of support, in which case the smallest possible force will change the position of the body, and it can never again return, except by the action of extrinsic forces, to its primitive position; the centre of gravity may coincide with the point of support, when it will readily be moved around the latter, and remain indifferently in any position in which it may be placed; or the centre of gravity may be vertically beneath the point of support, in which case the equilibrium is stable; for however far the body may be caused to diverge from this primitive position, it will, if abandoned to itself, again return to it after a series of oscillations. But when the support, instead of being a solid prop, is the upward pressure of a fluid, the case is widely altered; for the centre of gravity may be above, or coincide with the point to which the supporting forces may be considered as applied, (the centre of magnitude of the part immersed,) and the equilibrium shall still be stable. This arises from the circumstance, that while the centre of gravity of the whole mass remains fixed, the centre of magnitude of the part immersed will change its position, with every variation of inclination, whether in the direction of the length, or the breadth of the vessel. If this point change its place so rapidly as to move in the direction of the inclination faster than the vertical line passing through the centre of gravity, the equilibrium is stable. If one vertical still continues to pass through both points, the vessel will remain indifferently in any position. But when the vertical line, passing through the centre of gravity, falls nearer to the side of the vessel than the centre of magnitude of the part immersed, the very weight of the vessel, independently of all other circumstances, will now act to overthrow her. In these motions, the centre of gravity of the part immersed, describes a circular arc whose centre is in the vertical axis of the vessel, considered as fixed in respect to the vessel, but moveable in respect to the water. This point of intersection is called the *Metacentre*, and on its position the stability of the vessel will depend; the higher it is placed, the greater the stability; and it is indispensable that it should be above the centre of gravity. Were all the sections of vessels portions of equal circles, they would have each but one metacentre, but as their sections, although symmetrical on each side of the plane of the keel, are in other respects irregular, it is usual to resolve all the forces that act to cause the inclination of vessels into two, one acting in the direction of the plane of the keel, the other at right angles; and each of these component forces has its appropriate metacentre. The metacentre that has respect to the force acting in the longitudinal direction, is always sufficiently high, and therefore the examination of its position

has little to do with mere stability ; but that which refers to the lateral force, may easily, by bad construction, or an improper distribution of cargo, be brought too low ; and hence the mode of finding it, when the figure of the vessel, and the distribution of the weight with which it is loaded are given, is of extreme importance both to naval architects and seamen. Our author points out the mode of doing this, in the fourth chapter of the first book of his second volume.

However high the metacentre may lie, it will be possible that a vessel may be so far inclined in a lateral direction, as to throw the vertical line, passing through its centre of gravity, without the vertical passing through the centre of the hollow. In this case, the equilibrium ceases to be stable, and the joint action of the weight and buoyancy of the vessel will tend to increase the inclination. This occurs, when a vessel, by a sudden effort of the wind, is thrown upon the *beam ends*. The greater the draught of water, the greater the liability to this accident, and investigations have pointed out this practical rule : viz. that the draught of water should in no case exceed half the main breadth.

But it is not sufficient that a vessel shall be merely stable. When the wind acts to incline a ship, the joint effort of the buoyancy of the water and the weight, tends, in a proper position of the metacentre, to restore the vertical position ; this is not done at once, but by a series of oscillations. These oscillations, however varied, may be resolved into such as have their direction either in the plane of the keel, or at right angles thereto. The first of these, goes by the name of *pitching*, the last, of *rolling*. The violence of both of these, is increased by the motion of the waves, which would of themselves give similar motions to the vessel. The action of pitching tends to strain a vessel, and to lessen its duration, but it is rarely attended with immediate danger, except in the case of the extremities being too sharp, or the close wood-work of the vessel of too small an elevation above the water's edge. Hence it is proper to make the bow of a vessel, which is especially exposed to this action, full, particularly above the load water-line ; and the determination of the prow of least resistance, is of no value in practice. The stern is also occasionally exposed to a similar danger, as in the case of the sails being suddenly taken aback by a change of wind ; vessels in truth have in several cases been lost by the entrance of the water, in such an event, through their cabin windows. Upon this fact, rests the chief value of circular sterns, that are now about to be restored in naval architecture. As to that value which is attributed to them in naval actions, we conceive it to be overrated. A vessel is equally exposed, when raked from the bow and from the stern ; the danger arises from the greater number of persons that are exposed to a flanking fire, from the greater injury done to the wood-work, and from the

certain destruction of the gun-carriages; but as far as relates to offensive means, they may be made greater from a well-constructed square stern, than from a circular one, as we have particularly noted in the case of the frigate *Guerriere* in our navy, and the others built upon her model. The danger arising from pitching, may not only be lessened by a proper form of the extremities, but by a just distribution of the weight; taking care to load those parts as little as possible. Hence, poops, sterns with a great rake and loaded with carving, quarter galleries, and heavy figure heads, are objectionable, and are now in deserved disrepute. And hence, in time of peace, or on a voyage to a station, a ship may be much relieved by stowing near the middle of the vessel a couple of guns from each extremity of her several decks.

If the action of rolling produce less direct effect in straining a ship, it is still attended with danger, and will also tend to diminish the strength and duration of a ship, through the action of the masts as powerful levers. These dangers arise from the shipping of seas, even on the weather side; and the strain on the masts and rigging by their violent return towards the wind; by the last of which, the sails are frequently torn, and spars carried away. A ship may thus be compelled to return to port to refit, or may be driven upon a lee shore, for want of the power of spreading sail enough to beat off the shore. The greater the stability of a vessel, the more violent and rapid is the motion of rolling, and hence in ships of war, the motion may be relieved by raising the centre of gravity of the weight, or even by adding weight to the upper works. Our author cites the case of two Spanish men of war, the *San Carlos*, and *San Fernando*, which were intended for third rates, carrying eighty guns upon two decks, and which never left the harbour without being dismasted. These vessels were rendered serviceable, by mounting heavy guns upon their gangways, thus making them equal in force to second rates. The velocity with which a vessel rolls, may also be lessened, without changing the position of the centre of gravity, and thereby lessening the stability, by merely removing the weight to the greatest possible distance on each side of the plane of the keel. Thus a vessel will roll less violently with her guns run out, than when they are housed. We may also see from this, the error so long persisted in, in naval architecture, of making the sides of ships of the line tumble in suddenly; as in this way, without any augmentation of stability, they will roll more violently. This defect has been slowly and timidly lessened, but we know of no vessel of this class, entirely devoid of it, except the *Ohio** seventy-four. This rule is not applicable to small vessels.

* Other recently built ships in our navy, have probably the same quality; but we have not seen them.

The best possible figure to give a vessel, in order to moderate the action of rolling and pitching, is that in which every vertical section is a circle, whose centre is the point of application of the forces that cause the inclination. Such a figure cannot be attained in the cross sections of vessels navigated by sails, as the *Centre Velique* lies too high; but it may be approached, by taking care that the extreme breadth of every section shall be considerably above the water's edge. When, however, no other force acts, except that of the waves, the figure is practicable; and we have familiar instances of its application, in a portion of the rind of a cocoa nut, or of the skin of an orange, that will float in an upright position, upon surfaces the most violently agitated. The same principle has been applied in the construction of the English life-boat, which, by the aid of great buoyancy, (arising from the mass, even when loaded with the greatest quantity of water that can be shipped, being still less in weight than an equal bulk of the fluid,) is capable of navigating the most tempestuous seas.

In addition to the occasional, but frequent straining to which vessels are liable in the action of pitching and rolling, there is a constant one to which they are exposed from the moment of their launching. Although a body plunged in a fluid will speedily assume a position of equilibrium under the joint action of its own weight, and the upward pressure of the fluid, it does not follow that the vertical action of the fluid is the same at every point, or that it exactly balances the weight which acts there. So far from this, the load of ships towards their extremities is not sensibly different from that in the middle, while a much greater volume is immersed in the latter part than in the former. At the two extremities then, the weight will exceed the upward force of the fluid, while at the greatest breadth, the last of these powers will preponderate. The mode of action of these forces may be investigated, by supposing a vessel to be divided into two equal parts, by a vertical plane at right angles to the plane of the keel. The supporting force will here, as before, be applied to the centre of magnitude of the immersed part of each of these segments, the weight to their centre of gravity. But these two points will not now be in the same vertical line; the line of direction of the centre of gravity falling further from the dividing plane than that of the centre of the part immersed. These equal forces (the weight, and the hydrostatic pressure) will then each act, as it were, upon a lever whose fulcrum is in the dividing plane, and the weight will in consequence have a mechanical advantage over the pressure. The effect of this will be to change the figure of the vessel, by the elevation of the middle, and the depression of the extremities. Such a change of figure is found to take place in all large vessels at the instant of launching. In some ships of the line, it has been found to amount to nearly a foot, in almost all, to

seven or eight inches. The force which thus bends a vessel at the moment of launching, continues to act during the whole duration of its service. It is resisted by the cohesion and strength of the materials, and particularly by the planks, (called the *Bends*,) that lie between the water's edge and the lower deck ports. As the strength of these planks diminishes with age, the change of figure will increase; and as, from their position, between wind and water, they are more liable to decay than those that are either constantly immersed, or constantly dry, it has not unfrequently happened, that ships, in other respects perfectly sound, have been rendered unseaworthy, or even destroyed by their failure. Hence, in the usual construction, these planks are among the most important parts of a ship, and require to be more frequently renewed than others. And, although they are all above light water mark, they cannot, in large vessels, be safely removed and replaced while they remain afloat. Dry docks are, therefore, on this account, as well as many others, indispensable for the repairs of a navy. The inner, or ceiling planks, also perform their part in resisting this tendency to a change of figure. Both the outer and ceiling plank, however, act to a disadvantage in resisting this action. Its direction is perpendicular to their length, in which way their own elasticity will permit them to yield to it, to a very considerable extent. They are also at right angles, or nearly so, to the timbers that form the frame of the vessel; and it is well known that all such framing is liable to a change of figure. Thus, for instance, a common gate, or a battened door, will speedily fall to pieces by its own weight, unless supported by diagonal braces, and in paneled doors the same consequence is avoided, by filling the vacuities of the framing by inflexible pieces. Obvious, however, as is this defect, it has, notwithstanding, existed uncorrected from the earliest date of marine architecture to our own era. It is only within a few years that the defect has been pointed out, and an appropriate remedy introduced. Seppings, a distinguished British naval architect, has proposed the suppression of the ceiling plank, and the introduction, in lieu of it, of a system of diagonal trusses. In the few ships that have been built upon this principle, the effect has, in a great measure, answered his expectation, although some practical difficulties are said still to exist. The change of figure, at the time of launching, has in them been reduced to one third of what occurs in similar ships of the old construction. We would venture to inquire whether it would not be possible to give to the ceiling plank itself a diagonal position. This, if practicable, would be attended with a still greater increase of strength.

The intensity of the force that tends thus to bend, and finally to destroy a vessel, increases in the compound ratio of its weight and length, or as the fourth power of the lineal dimensions.

Hence, the timbers and planks of vessels ought to increase in size, more rapidly than the tonnage, a rule that is rarely attended to in practice, and which is, in truth, liable to difficulties that seem to mark a limit to the magnitude of ships. Of this difficulty we have an instance in a vessel on which the skill of French naval architects and ship builders was lavished, the *Commerce de Marseilles*, the largest ship ever launched in France. This vessel, which fell into the hands of the English during their occupation of Toulon, in 1794, was safely navigated to England, with a prize crew, and without the usual stores. But, when equipped to bear an admiral's flag, and loaded with the customary stores, water, and provisions, for the larger crew, the strength of the materials gave away under their weight, and the ship became unserviceable, in the first gale of wind that was experienced. During the Revolution, and the reign of the Emperor Napoleon, the French seem to have restricted themselves to vessels of two decks, and the flag of Villeneuve was borne at Trafalgar by a vessel of that description. But, the Spaniards were successful in building a vessel of even larger size, the *Santissima Trinidad*; this is, in a great measure, to be attributed to the scientific investigations of Juan. The English, who avail themselves of the discoveries of other nations, have four vessels in their navy little inferior in size to the *Commerce de Marseilles*, none of which however have a high reputation.

The motion of ships is for the most part affected by the action of the wind. Steam has however been partially introduced, even in vessels navigating the ocean; and it is even confidently anticipated, that it may be made to bear a prominent part in future maritime wars. Still, however, except upon rivers and small lakes, it is so much more expensive an agent, that it will never wholly supersede the wind as a moving power.

The wind is made to act, to propel the hull of a vessel through the water, by spreading upon masts, in such a way as to intercept a portion of its current, sails of canvass, or other light substance. The exact mechanical action of the wind upon the sails of a vessel, is not fully understood; even the theory of the action of non-elastic fluids, is not entirely developed, and that of elastic fluids, is still less improved. It is, however, generally admitted, that were the sail a plane surface, the direction of the motion it would derive from the impulse of the wind, would be in a line perpendicular to its own surface. The intensity of the force would vary with the inclination of the sail to the course of the wind, but the direction would remain constant. This is sufficiently near the truth for our present purpose. A vessel then, of a circular shape, and consequently equally resisted by the water in all directions, would move forward in a line perpendicular to the surface of the sail. But such a vessel is never used in practice,

nor indeed would it have been possible to steer or guide it; for it would have readily moved around its vertical axis, until the sail had attained a position perpendicular to the wind, and could therefore have sailed in no other direction than directly before it. To obtain the property of sailing, at any angle with the wind, that will permit the sails to fill, vessels have been made with sections more near to an ellipse, than to a circle; and by this change of form, other advantages have been attained. It is desirable that a vessel should sail as nearly as possible in the direction of her length, or in the plane of her keel. The greater the length of the vessel, the breadth remaining constant, the less will be the deviation from this plane. This will at once appear, from a consideration of the nature of the resistance that opposes the motion through the fluid. When a vessel is at rest, the fluid pressing equally upon equal surfaces, is in equilibrio around the hull; but when motion begins, this equilibrium is at once disturbed. The viscosity of the fluid, in the first place, opposes a resistance analogous to friction, which follows the law of the space described, and therefore of the velocity simply, provided both ends of the vessel be nearly similar; the second part of the resistance, and which, in most treatises on the subject, is the only one taken into account, follows the law of the square of the velocity; finally, a wave is raised in front of the vessel, and the resistance arising from this, increases with the fourth power of the velocity. In water, the constant coefficient of the first of these, is much the greatest; so that, in small velocities, the first of these terms alone, need be taken into account; but, as the velocity increases, the values of the other two increasing in a much higher ratio, become sensible, and finally, of such an amount, as to show that no application of mechanical agents can be made to propel a vessel through the water, beyond some finite velocity. Frigates of the best construction for sailing, when struck with a squall, with all sails set, have been observed to move, until the sea rose, with a speed of about fifteen miles an hour; and a steam-boat at present navigating the Hudson, moves through the water at the rate of thirteen miles; we cannot but conceive, that the former of these is probably the utmost limit of speed that any vessel can attain. The exact limit may however be calculated by the formulæ of Juan, but it would not be suited to the objects of our review, to enter into this investigation. Each of these several terms, of which the resistance is made up, depends also upon the figure of the surface of the vessel, or the angle its several parts make with the course. The maximum resistance to lateral motion, would be measured by the application of the formula to a plane surface, bounded by the cutwater, the stern-post, the keel, and the surface of the water; the maximum resistance to the direct course, by the application of the same formula to the greatest cross sec

tion of the vessel. The more acute the angle of the prow, the less would the former, and the more the latter of these maxima be lessened; hence, in vessels of the usual form, the resistance to lateral motion is much greater than to that in the plane of the keel; and instead of considering the path to be in a direction perpendicular to the sails, we assume it to be in that of the length of the vessel. But, as the lateral resistance is not so great, as the amount of the pressure of the wind in that direction, this assumed course requires a correction, which is called the *Leeway*. This is less or greater, according to the ratio of the length to the breadth, and varies inversely, according to the laws we have stated, with the greater or less sharpness of the vessel, the draught of water and the length of keel; but in a well-constructed vessel is never very large. Hence it follows, that, as the sails of nearly every description of vessels may be trimmed to make an acute angle with the plane of the keel, the course may also make an acute angle with the same plane, and the vessel actually ply to windward. By a series of diagonal movements, exposing the opposite sides of the vessel alternately to the action of the wind, a point directly to windward of the place of departure may be reached.

This manœuvre, or the operation of *beating* to windward, appears to have been unknown to the ancients, who therefore could only use sails in favourable winds, and were, at other times, compelled to run for a harbour, and anchor, or to force themselves painfully forward, by means of oars. Hence their navigators were confined to timidly following the coasts, and they could only venture in settled weather, and with the prospect of a fair wind, out of sight of the land. That change in the rigging and structure of ships, which fitted them for performing this manœuvre, seems to have had its origin among the Italian republics; but the person or state to whom we are indebted for it, is lost in the darkness of the middle ages. Few greater benefits have ever been conferred upon mankind, than by this discovery, made in practice, at least seven centuries before the state of mathematical learning would have enabled us to have derived it from scientific investigations.

Yet, although thus lately introduced among nations comparatively civilized, and unknown to those of more high antiquity, although even more refined, the principle has been developed by a barbarous people, and applied with even more skill, than it has been by the nations of Europe and America, up to the present day. The earlier circumnavigators found a vessel in use among the inhabitants of the Ladrone Islands, which, from its very remarkable properties, they called the flying Proa. The body of this vessel, was in shape like that of the half of one of ours; it had therefore one side an absolutely plane surface, the other curved, and

was similar at both ends. As such a figure could not float upright, a long outrigger was attached, which bore at its extremity a vessel similar in shape, but much smaller than the first, and carefully closed, so as to be impervious to water. The weight of this acting on the extremity of so long a lever, kept the larger body upright, while its buoyancy insured stability, and prevented rolling. The plane surface being kept to leeward, was more resisted than the curved could have been, and the leeway therefore less than in any of our vessels. The sail was prevented from bellying in a horizontal direction by transverse strips of cane, and hence would be filled by a wind, making a less angle with it, than if it had been made of canvass, stretched as ours is. The whole furnished an instance of ingenuity and talent, the more remarkable from its contrast with the unseamanlike junks of the neighbouring cognate nations, the Chinese and Japanese.

When a vessel is sailing before the wind, the utmost velocity that can be attained, is less than that of the wind itself, by the whole amount of the resistance of the water to the direct course of the vessel. But in sailing upon a wind, its effective action depends, not upon the absolute velocity of the current, but upon the sum of the velocities of the wind itself, and of such part of the speed of the vessel, as is estimated in a direction contrary to the wind. Hence, were there no resistance from the water to the direct course, the velocity of a vessel lying near to the wind, would be in theory limited only by the resistance of the air. Various other circumstances, however, besides the resistance of the liquid medium, act, and combining with that cause, prevent the velocity on such courses, from exceeding that which has already been assigned. Thus, as the force of the wind increases, the stability of the vessel diminishes, the strain on the canvass, the masts, and the rigging, becomes excessive, the sails must in part be taken in, and others reefed. Still however, in light winds, and upon oblique courses, a vessel when close hauled, will acquire a speed greater than that of the wind itself. This fact, which is deduced from his theory, was observed by Juan to hold good in the lateen-rigged ferry-boats in the bay of Cadiz, and has been found by our author to be true even of ships of the line, since the introduction of copper-sheathing, an invention that has not only prolonged the duration, but added to the speed of ships.

Vessels of different kinds possess the property of plying to windward, and having their speed increased upon this principle, in different degrees. In this respect, they may be arranged in two classes, vessels with square sails, and those rigged fore and aft. The primitive position of the sails of the former is at right angles to the plane of the keel; in the latter they hang in that plane. In the first case, the sails must be braced round by their sheets and bow-lines to receive an oblique wind; in the second,

it acts to force them from their primitive position, towards which they are again drawn back by the sheets. Square sails can in no vessel be made to form with the keel an angle less than 40° ; fore and aft sails become effective when they are forced out from that plane to an angle of little more than 20° . Hence, sloops, schooners, and vessels with lateen sails, lie much nearer to the wind than ships, and will acquire, when close hauled, a far greater degree of speed. But, in stormy weather this advantage is counterbalanced, by the greater stability and power of carrying sail possessed by square rigged vessels.

The resistance of water to the motion of vessels, depends, as has been intimated, not merely on the relation of the length to the breadth, but also on the figure of the bottom. This may be illustrated by experiment. If a square prism of wood be taken, and drawn through a liquid by a determinate force, the velocity will be increased, by placing on its anterior part a piece of the form of a wedge, and the more acute the angle of the wedge the greater will be the velocity. The velocity may be still further increased by adapting a similar wedge to the hinder part, by means of which the pressure of the water upon that part is kept from decreasing as the body moves through that liquid. Such a body has on its surface abrupt angles or edges, and further experiments will show, that a body which has its surface formed of curves that make no sensible angle at any point, will be still less resisted, all other circumstances being similar. These curves, experience has shown, should be such as to present a convex surface towards the bow, and one concave towards the stern. Such curves are found in those vessels that have been observed to sail best; and they are also found in nature in the section of those fish which are remarkable for their speed. We have spoken of wedge-like figures in these experiments, because such give a greater length of floor, and admit a longer keel, which are of the greatest advantage in vessels propelled by the wind, in diminishing the leeway, and facilitating the action of the rudder; but planes inclined to the horizon, and surfaces curved in that direction alone, would be equally advantageous in the case of other mechanical agents being employed, as for instance steam. Juan, and our author following him, are of opinion that equal surfaces are more resisted in proportion to the depth they are immersed in the water; a rectangle, for example, being more resisted when its greatest length is vertical, than when the same side is horizontal. If this be the fact, a form of bow of regular curvature, modified from the inclined plane, rather than from the wedge, would be best fitted for steam boats. We have seen such a shaped bow applied in the vessels that navigate the Rhine, and such a figure is approached in the steam boats built under the direction of Mr. Robert Stevens, who alone, as an engineer, appears to us to have

added any thing valuable to the methods executed or pointed out by Fulton.

Another important part of the theory of vessels is that which respects their guidance or steerage. This is effected by the double action of a proper distribution of the sails and of the rudder, and a vessel is in the best condition, in this respect, when any desired course can be pursued without the intervention of the latter ; that is, therefore, solely used for the purpose of effecting a change of direction. The theory of the rudder is so well understood, and so fully treated of in most elementary works, that we conceive it unnecessary to enter into any discussion with regard to it. Nor shall we follow our author into his practical chapters on the stowage, the mooring, the several manœuvres, and the precautions to be observed on board of vessels. We shall content ourselves with recommending these chapters to the perusal of nautical men, for even to the most intelligent and practiced of them, they cannot fail to be valuable, as the production of one who adds much experience to sound theory.

As the first volume of this work is entirely devoted to elementary mechanics and preliminary inquiries, the whole forms a complete body of that science, adapted to the use of nautical men ; should, therefore, our government establish a naval academy, we would venture to recommend the *Theorie du Navire* as well fitted to form the basis of instruction in the important department of mechanical philosophy. Its complex and difficult investigations are, indeed, beyond the reach of mere learners, but in the hands of a competent teacher, and as the text-book of a course of lectures, its principles may be easily communicated to all, while the spirit of its demonstrations may be attained by no small portion of a class of docile pupils.

ART. II.—*York Town. A Historical Romance.* 2 vols. Wells & Lilly, Boston, 1826.

M. SISMONDI, in his admirable "Historical View of the Literature of the South of Europe," makes the following observations, which, independently of their general truth, have, we think, a peculiar application to the situation of the United States.

"The literature of other countries," he observes, "has been frequently adopted by a young nation with a sort of fanatical admiration. The genius of those countries having been so often placed before it as the perfect model of all greatness, and of all beauty, every spontaneous movement has been repressed in order to make room for the most servile imitation, and every rational attempt to develope an original character, has been sacrificed to

the reproduction of something conformable to the model which has been always before its eyes. Thus the Romans checked themselves in the vigour of their first conceptions, to become emulous copyists of the Greeks; and thus the Arabs placed bounds to their intellectual efforts, that they might rank themselves among the followers of Aristotle. So the Italians, in the sixteenth, and the French, in the seventeenth century, desirous only of imitating the ancients, *did not sufficiently consult, in their poetical attempts, their own religion, manners, and character.* And thus again, the Germans, for a period of no long duration, and the Poles, and the Russians, to the present time, have repressed their own peculiar spirit, in order to adopt the laws of French literature, and to convert themselves into a nation of imitators and translators.”*

Had M. Sismondi been conversant with the literature of this country, he probably would, as he might with justice, have included the United States in the catalogue of those nations which have, in some degree, “repressed their own peculiar spirit,” by a habit of imitation. From the identity of language, and a close resemblance in habits, manners, religion, and institutions, it became almost impossible for this infant nation to avoid adopting the opinions, tastes, and peculiarities of the mother country, as exhibited in English books, and selecting them as models in every species of composition. A resort to Greek or Latin, or even to French, Italian, Spanish or German literature, was precluded to the generality of our writers, either not acquainted at all, or not sufficiently masters of the beauties of the language, to transfuse them into their own; while to the majority of readers they were only accessible through this latter medium. A language with which every body was familiar, would consequently be resorted to for models of composition; and hence it has happened that we have almost exclusively borrowed our books, and our opinions, as well as our fashions, from England; adopted her national prejudices and antipathies, and condemned the world by wholesale, just as her caprices, passions, or interests, dictated.

Could this habit of adopting, or imitating the literary productions, and naturalizing the opinions of our mother country, be confined to the selection of those standard works which, in fact, belong to the whole world, and contain the immutable principles of truth, it would, on the whole, be highly beneficial to this nation. Our ancestors, with the exception of some few, had little leisure for writing books, and those they did write were mostly theological. They were under the necessity of borrowing, and their selections were generally happy. About the period of the first settlements in this country, the works before the public in England, and which were most read, because they were con-

* Sismondi's *Literature of the South of Europe*, p. 3, New-York ed.

nected with those subjects which almost exclusively occupied the nation, were of the highest order of excellence. The discussion of constitutional principles ; the conflicts of various religious denominations, striving for toleration, or for mastery, had, by a natural operation, called forth all the energies of intellect, in support of either side, and brought forth some of the most profound works on morals, divinity, and politics, to be found in any age, or in any language. These works were, many of them, peculiarly applicable to the state of this country, and its republican bias. Although Locke did not, perhaps, prove himself a good practical legislator, yet his writings abound in the most admirable abstract principles and reasonings, highly favourable to freedom of action and opinions. Like the Greeks and Romans, the most eloquent writers, and most able reasoners, were, to the honour of human nature, during this period, to be found on the side of liberty ; and they may, with great advantage, be put into the hands of every free people. There is an evident, a triumphant superiority in the writings of Locke and Algernon Sidney, over Filmer, and the servile advocates of the divine origin, as well as divine right of kings, that entitles them to the high honour of being read and cherished by increasing millions of freemen.

Of the theological writers of that period, it may be said, with equal truth, that they are learned, eloquent, and profound ; but not with equal truth, that the advantage is here so much on the side of freedom. They were divided, and, perhaps, nearly equally divided ; and it is difficult to say which displayed the most zeal, ability, and learning. The divines of the church of England, if not the most orthodox, were, with few exceptions, the most loyal. The Presbyterians, and the other non-conformists, were somewhat inclined to republican doctrines, or at least to a separation of church and state, which has always been found favourable to liberty. They questioned, indirectly, the prerogative of the king, which was exercised to their prejudice, possibly for the same reason that the high church party asserted it, because it operated in favour of their pretensions. Whatever may have been the causes, and doubtless many contributed to produce the result, the low church party finally became identified with the Whigs, while the high churchmen adopted Tory principles. Whoever, therefore, wishes to discipline his mind in the conflicts of profound learning and powerful intellect, zealously employed in maintaining either side of the question, will do well to consult the writings of the English divines who flourished between the accession of Charles the First and George of Hanover.

The historical writers of England display a similar diversity of statements and opinions in relation to the conflicts of the republican or constitutional and court parties, during the period to which we have just referred, and which comprises by far the most

interesting portion of English history to the people of the United States. It is easy to get at the truth of events. But of the causes which produced them, and the motives of those who were the agents, historians will differ in proportion as they belong to different parties, and their readers will, generally, side with one or the other, for the same reason. Ludlow, a distinguished actor in the civil wars, has written an account of the events of that period, and detailed the various intrigues and conflicts of the different parties, which finally led to the usurpation of Cromwell, and the subsequent restoration of the Stuarts. He was a member of the Long Parliament, one of the council of state, a lieutenant general, and commanded in chief in Ireland, on the death of the lord deputy Ireton. He was a determined republican, and an honest man. He never recognised the Protectorate; and he opposed the return of the king. When that event took place, he went into exile at Lausanne, where he wrote his memoirs, and where he died, cherishing to the last his devotion to the cause for which he first took up arms.

His memoirs are written with an air of candour and liberality, and without passion. The style is characterized by a manly simplicity, yet at the same time a deep intensity of feeling, that makes it peculiarly touching. Regrets at the abortive end of a successful struggle; indignation at seeing every thing surrendered voluntarily, which had been gained by years of civil war, and vast sacrifices of human blood and human happiness, mingle, indeed, with his relations; but, there is that in them which carries with it the evidence of unimpeachable veracity. The book is scarce and little known; but, it is to works of a similar character, that the readers of the United States, who love their country, should resort to receive a lesson of the crimes of despotism, and the follies and excesses of liberty. His statements are substantiated by Rushworth's Collection; and his authority stands as high as that of any cotemporary or subsequent writer, in relation to the period of which he treats.

Clarendon was a courtier, a connexion by marriage, and an old fellow exile, with Charles II. His history of the Rebellion, as he calls it, is, therefore, not altogether calculated for the meridian of this country. He is strongly biassed in favour of the pretensions of Charles I., whose conduct he occasionally censures, not so much on the ground of principle, as of expediency. He was however, perhaps, restrained by the necessity of not too much irritating a large party, yet remaining in England, that still cherished a veneration for those constitutional principles which occasioned the civil wars, of which he had become the historian. All things considered, the work is written in a moderate spirit of hostility; and his relations of events, as well as delineation of characters, and indications of motives, are, upon the whole, as candid

as could have been expected, except with regard to Hampden, whom he has charged with being altogether governed, in his opposition to the king, by base personal feelings and interests. We are aware that the editors of the first Oxford edition of Clarendon, were charged, by Edmund Smith, author of the tragedy of Phædra and Hyppolitus, with having interpolated this passage; but, upon the whole, the allegation was not proved, and Clarendon must stand charged with a calumny, which the almost unanimous voice of his contemporaries and posterity has disproved.* Opposed to Clarendon, in detailing the history of this interesting period, is Mrs. Catharine Macauley, whose work, though incomplete in its plan, and somewhat slovenly in its execution, is still full of energy and eloquence, and may emphatically be called the republican history of those times. It abounds in irrefragable references to documents and authorities, and amply deserves a more extensive circulation in this country than it has hitherto attained. But it is unnecessary to extend our catalogue, as all the preceding histories of England have been superseded in the general use, by that of Hume, which is written with a beautiful simplicity of style; a temperate and chastened gravity of manner; a happy selection and arrangement of materials, and an apparent disposition to be impartial, that are combined, and place it, perhaps, at the head of English historical works. But this impartiality is only—we will not say affected—but assuredly it is not real. He certainly deceived his readers; perhaps he may have deceived himself. Without being the avowed and zealous champion, he is what is far more mischievous—the insinuating apologist of a race of kings, who were, from first to last, the faithless unprincipled enemies of the people's rights, and whose final banishment alone secured, for a time, the only republican principles recognised in the constitution of England. He is to be found in all libraries, even those of the most orthodox English prelates, who seem to have forgotten his heterodoxy, in his loyalty. The work of Dr. Lingard, which has been brought down to the death of Charles the First, is now in course of publication, and from its pleasing no party exactly, is, as may be augured, more impartial than usual. The Scots accuse him of being unjust towards them in his details of their strange conduct towards Mary, the Scottish queen, and in their negotiations with Charles the First; the Protestants and Presbyterians charge him with partiality to the Catholic religion, of which the doctor is a member; the admirers of kings do not relish his manly strictures on the conduct of Charles; and the republicans are not quite satisfied with not being entirely exonerated from all blame. His work is, however, most ably written, and amply merits a republication in this country.

* See Ayres' Life of Pope, for a full account of this controversy.

The poets of England are of the same mixed political character. Previous to the agitation of those great questions, which resulted at length in the rising of the Commons of England; the death of Charles I.; the Parliamentary ascendancy; the Protectorate of Cromwell; the restoration of Charles II.; the abdication of James, and the Revolution of 1688, which placed the government on its present constitutional basis—English poetry had little to do with politics. The disputes which, anterior to that period, agitated England, arose in a great measure from the rivalry of different pretenders to the throne; the disaffection of an overgrown nobility; the collision of the Papal authority with that of the king; or the growing claims and antipathies of different religious denominations. Civil liberty had nothing, or at least but little to do with these. Hence we find the earlier English poets, rather levelling their shafts at the corruptions of religion, and the vices of the clergy, than at the abuses of regal authority. Neither Chaucer, nor Spenser, as poets, seem to have belonged to any political party; nor to have paid any attention to those opposing principles, which have since agitated the world, although both of them occupied public situations. The truth is, for years after the cessation of the struggles between the rival Houses of York and Lancaster, the English nation, and of course the English poets, were under very little political excitement, any further than the connexion of religion with government occasioned it. It was the struggle between rival religions, not of the conflicting principles of liberty and despotism.

With the accession of James I., however, a different era commenced. Constitutional principles had been slowly and imperceptibly gaining ground. A new religion was established, and it had become necessary to enlist the people in its support and defence, by appeals to their interests or passions; and it has been stated as a fact, that not a few of the ministers of Queen Elizabeth, had actually planned and drawn up articles of restriction, which were to have been presented to James, as a preliminary to his taking possession of the English throne. The plan however failed, in consequence of the desertion of those who wished to pay court to the new monarch, and the articles were never signed. But notwithstanding, strong indications begin to appear about this period, which mark the commencement of an era, in which popular feeling becomes one of the most powerful instruments in the revolutions of empires. Popular poetry now made its appearance in England, in the shape of ballads, which Somerset, Buckingham, and other favourites and courtiers of James, caused to be written and sung about the streets of London, for the purpose of bringing their rivals into contempt with the people. Sometimes the king himself was assailed in this manner; for it is to be observed, that, as the people had not yet become sufficiently

enlightened, and consequently not sufficiently formidable to excite the apprehensions of the government, a license was allowed, or perhaps overlooked entirely, in writings of this kind, which would hardly be tolerated in England at the present day. So few people read books at that period, that their influence created very little apprehension.

This license of poetry, was at its height, during the reigns of Charles II., and James II., the precise period in which these monarchs were planning, and attempting the greatest encroachments upon the Constitution of England. A volume printed in the year 1705, entitled "A Collection of Poems relating to State Affairs, from Oliver Cromwell to the present time," comprising nearly six hundred pages, is now before us. The names of Marvel, Denham, Locke,* Dryden, Defoe, Rochester, and others, appear in this collection, appended to productions, that for severity of sarcasm, bitterness of invective, and keenness of wit, are hardly to be paralleled in the works of any age, in any language. Many of these want nothing but a little more attention to versification, to be equal to the satires of Juvenal.

To this age, but not to this class, belongs Milton, the great republican poet of England, who seems to have communed alone with superior beings, and to have dwelt in the vast solitude of his own illimitable mind. His writings every where display that lofty spirit of independence, that innate attachment to freedom, which seem always characteristic of an enlarged and generous mind, until its nobler propensities are checked, or thwarted, or undermined, by the temptations of the world,—by empty honours, or inadequate rewards. Milton was a republican to the last; he never in his old age belied the generous sentiments of his youth; nor is there to our knowledge a single passage in his prose or poetical writings, that can be cited in support of despotic power, or in opposition to the rights of the people. His *History of England*, is one of the noblest specimens extant; full of enthusiasm; of dignity; of poetical beauties adorning the simple majesty of truth.

Opposed in some measure to Milton, is the genius of Shakespeare, equal in every thing, but in the embellishments, and acquisitions of knowledge and learning. Milton was a great scholar, conversant with ancient and modern literature, and could draw experience from ages and sources, to which Shakespeare had no access. The possession of learning, was unquestionably a great advantage to Milton, who was equally original with Shakespeare; but it might be doubted, whether similar acquisitions would have been equally so to the latter. We *know* that learning

* He designates himself, John Locke, Student, of Ch. Ch. This could be no other than the great metaphysician.

neither embarrassed the flight, nor clogged the invention of Milton, one of the most original, and most self-dependent poets of modern times; but we do not know, nor can it ever be known, whether the same degree of learning would not have converted Shakespeare into a Ben Jonson. However this may be, nothing is more certain than that Shakespeare was no republican. There may, indeed, be found in various parts of his dramatic works, detached passages, and sentiments in favour of liberty. But these are mere abstract declamations. No writer, ancient or modern, not even the Laureate, or Mr. Gifford, ever treated the majesty of the people with such utter disrespect. He lived during a reign, which exacted the most abject servility from all; and though he might have demurred to the authority of a justice of the peace at Stratford, he bowed to the earth, at the feet of majesty, in London. We scarcely recollect an instance, where he has introduced a character in an inferior situation of life, except with a view to make it ridiculous. Persons of this class, have no honourable agency in his plays, nor are they permitted to perform any heroic action. The people are always designated as a mob, or a rabble, and treated, except in one single case, with contemptuous sarcasm; or what is still more mischievous, they are made to debase themselves by uttering the most broad and ridiculous absurdities, such as render their just pretensions an object of laughter and contempt. For this, not Shakespeare, but the age in which he lived, is answerable. It could never have been in the nature of such a divine genius, to become the flatterer of kings, and the contemner of the people, had not the example of all around, and of the very people themselves, obliged him to stoop to this degradation. Had Shakespeare lived in these times, there can be little reason to doubt, that the universal example, now so different, would have encouraged him to a different course, and led him to do justice to the more liberal conceptions of his mighty mind.

The progress of free principles, is indeed most distinctly marked in the character of the literature of different periods; and nothing can more clearly indicate the difference in the state of the people of Shakespeare's age and ours, than a comparison of his works with those of Sir Walter Scott, for instance. Nobody, we believe, suspects Sir Walter of being either a radical, or a republican; and yet he has on various occasions paid deference to the increased and increasing knowledge, dignity, and importance, of that class of people, which now constitutes the great majority of his readers, by ennobling persons not only of the ordinary, but of the lowest orders of society, by the magic of his fertile genius. The people, as a body, are treated with respect, although at the same time, a decided predilection is exhibited for the higher ranks; and not unfrequently the whole machinery of his

fictions is held together, put in motion, and the catastrophe brought about, by the agency of persons in the lowest ranks of life. So also, the incidents, the passions, and the vicissitudes of ordinary domestic occurrence, have gradually become subjects for the heroic and tragic muse. It is no longer the exclusive privilege of royalty to be sentimentally mad, or incomprehensibly miserable—to act as no ordinary person ever yet acted, and to talk as no ordinary person would ever have ventured to talk, until the principle of equality had obtained an extensive acceptance among mankind. The present race of dramatists, and romance writers, in imitation of Sir Walter Scott, have extended these privileges to all; a gypsy woman, or an auld Scotch nursery-maid, now raves in the true “Ereles vein;” and an honest German ostler mouths, and struts, and runs mad, and declaims in good set terms, as if he were privileged by a direct descent from Rodolph of Hapsburgh. Nor, setting aside the difficulty of talking grammatically, as it were, by a special providence, and without education or practice, can we conceive any particular reason why they should not. The passions are indigenous to human nature; they belong to no rank or situation of life. The same air is breathed by kings and cobblers, and the same stimulants will precipitate the one, as well as the other, to rage, despair, or madness. The deeper passions are equally the subjects of heroic action, whether they exhibit themselves in the higher or lower classes; and may be made equally interesting, in the hands of genius. This truth is becoming generally recognised; literature is gradually partaking in the republican or free spirit of the age, and it is now no longer necessary to give an interest to romantic fictions, that the hero or heroine should be well born, or wear a title. Such arts, to catch the ignorant reader, are now becoming somewhat vulgar, among people of more refined taste; and it is only in this truly republican country, that titled heroes, and high born heroines, are considered as indispensable to give dignity to action, and piquancy to sentiment. In short, no writer of the present day, in England, or indeed in any part of Christendom, would venture to treat his nation, or people, with contempt. There is a sensibility diffused among all classes; an increased perception of individual dignity and importance, which keeps almost every man, whatever may be his station in life, wide awake to insults offered to his country, and especially to that class to which he himself belongs. This is strong evidence of the rising importance, as well as increasing intelligence of the people. Kings have ceased to be gods, and their subjects are about to become men. These constituted the two extremes, in the tenth century; in the nineteenth, they have almost met. They at length recognise themselves as fellow-creatures; and in proportion as the pride of the one is humbled, the

consequence of the other is exalted, by the discovery. But to return.

Among the second class of British poets—who are only second, because it was impossible to become first—the first places being already occupied—there will be found a good proportion of manly spirit, and generous love of freedom. The necessities of Dryden sometimes made him a flatterer of kings; but there is enough in his writings to indicate, that these offerings were a sacrifice to his wants, not to his feelings. Pope everywhere exhibits a manly independence of thought, and his works abound in expressions of contemptuous indifference to the pageantry and pretensions of royalty and rank. Addison's *Cato* is a republican tragedy. Thomson wrote a poem expressly in praise of liberty; and Smollett, an ode, which breathes the very soul of freedom. Goldsmith, in his two beautiful poems, the *Traveller*, and *Deserted Village*, has various passages, which are worthy of the purest era of republican Greece. He delights in dwelling on those pictures of hardihood and personal independence, which are the best and surest foundation of public liberty. The same may be said of many other poets of the last age, whom the limits assigned to this article, will not permit us to notice particularly.

Of the poets among our contemporaries, who have attained to the highest distinction, it may with justice be said, that many of them display singular contradictions in their political sentiments. Their early productions exhibit the most generous sentiments of liberty. No one can forget the affecting scene of Irish oppression, so beautifully exhibited in Mr. Campbell's song of *Mary Le More*, or the eloquent declamations in favour of freedom, in his *Pleasures of Hope*. Mr. Southey offered up the first fruits of his genius at the shrine of liberty. But both have changed. The former has become neutralized, and the latter has gone to the opposite extreme of ultra loyalty. Such changes may be the result of experience and reflection; but the world will always be inclined to doubt the purity and disinterestedness of those conversions, which are preceded or followed by pensions or places. Lord Byron occasionally indulges in lofty declamations about liberty; but they seem to be mere heartless rhetorical flourishes, or the effusions of personal disgust at some imagined ill treatment by his country or government. His stern unbending temper made him impatient of authority; and we cannot help thinking he was oftener asserting the freedom of his own will, than the principles of universal liberty. Thomas Moore began with arraying his Lilliputian muse against our republican institutions, and pricked this mighty Gulliver of ours, with divers sharp pins, which, though they might not inflict actual wounds, did nevertheless produce some small irritation about the epidermis. But he has since made honourable amends, by his generous effusions in

behalf of his own oppressed, unhappy country, and no longer ranks among those strange monsters of creation,—the loyal Irishmen. Wordsworth is essentially republican in his poetry, because his genius has been, in a great measure, employed in giving dignity and importance to the passions and incidents of ordinary life. The poetry of Sir Walter Scott, with few exceptions, belongs to another age; it is devoted to the illustration of times and manners long past and obsolete, and can have little political bearing upon the present state of public opinion. In a more enlarged and moral point of view, he deserves this justice from us, that in no part of his works, can we discover any indications, other than such as distinctly mark a heart and a fancy, true to nature, to virtue, and to all the generous feelings that ennoble the poet and the man.

It would be doing injustice, however, to very many of the present school of English poets, to suppose they had any specific or definite object, in a great portion of their writings, except that of fame and rewards. To attain these, they have sacrificed to the taste of the times, which seems to have a decided relish for voluptuousness, in some shape or other. We have the epigrammatic voluptuousness of Moore; the pious voluptuousness of Mr. Croly; and the deep sentimental Eastern voluptuousness of Lord Byron, sometimes displaying itself, as in the *Giaour*, and *Corsair*, in lofty heroics, at others, as in *Don Juan*, in grovelling intrigue, and naked sensuality. It is called by courtesy of modern indulgence, love; but it might be Englished by a very different phrase. The Greeks, according to Plato, recognised two Cupids, one who presided over the sentiment of love, and was of celestial origin; the other born and nurtured in the corruptions of the earth, altogether material, sensual, and debased. The school we speak of, seems to have selected the latter for its divinity.

We are not of those who hold that every poem ought to be a moral essay, or that we should find “sermons in stones,” as we walk the streets. Much less do we think that dulness is deified by being very orthodox. Still it does appear to us, that every work of fiction should be so managed, as at least not to debauch the imagination, or stimulate the more ignoble passions of the reader. In historical narrative, the course of events as they really occurred, must necessarily be followed, and the writer is no more responsible for the moral of the action, than for the action itself. But it is otherwise, where the plot and the catastrophe are of his own creation; and nothing but a bad taste, or a corrupt fancy, would indulge itself in the pleasure of representing triumphant guilt as an object of admiration, or stimulating the passions by luxurious pictures of licentious love. Under the influence of actual and immediate temptation, and when assailed

by the seductions of sense, there may be some excuse for yielding; but to think immorally in our closets, and then commit the overt act of obtruding these thoughts upon the world, is to become practically as well as abstractedly wicked; it is a voluntary and gratuitous species of turpitude, similar to that of a person who commits a crime without the excuse of temptation. It would be doing injustice to the memory of Lord Byron, and to the reputation of Mr. Moore, to omit mentioning that they have made a partial atonement for the license of their temporal effusions, by each giving to the world a collection of spiritual songs. But we know not how it is, these last have not the inspiration of the former; and to quote the quaint words of old Cotton Mather, "they seem to have given their flour to the Devil, and reserved their bran for the Lord."

There is another class of works of imagination, which seems in a fair way of swallowing up all the rest; one that is produced with less labour, more universally read, more munificently rewarded, and of course offering more immediate temptations, than almost any other species of authorship. We allude to historical romances and novels, which now constitute a large portion of the literary aliment of a majority of readers, and must of course exercise a powerful influence in the formation of their tastes and opinions. We shall reserve our remarks on these, till we come to a more particular notice of the work which stands at the head of this article.

If the foregoing short summary is any way correct, it would seem that so long as it is our destiny to imitate, or to borrow our literature, and literary tastes, as well as our opinions, we cannot perhaps resort to a better and purer source than England. There being as we before observed, a greater similarity in habits, manners, religion, government, and institutions, between the United States, and Great Britain, than is to be found in any other two great nations, it seems obvious, that if we must borrow or imitate, it is better to resort to this source. But if the necessity does really exist, we cannot but think it a mortifying, not to say injurious necessity. It undoubtedly in some measure fetters the genius of this country, by circumscribing it within certain prescribed bounds, and deterring it from deviations, which although in a majority of instances they might be abortive, would without doubt sometimes lead to original excellence and beauty; and one such successful effort is worth many equally successful imitations. It generates and perpetuates ideas of a natural and irremediable inferiority; it debilitates the mind, by furnishing its sole aliment, and thus rendering exertion unnecessary; it is feeding the grown up urchin with a spoon, when he should be taxing his energies to supply his own wants; it is surrendering a portion of intellectual independence, and colonizing our minds

to writers, who, however they may assimilate in their opinions, can never be quite indented with ourselves. If they do not differ in religion, politics, manners, and morals; if they even clothe their ideas in precisely the same language, still they mean a different thing, or a different degree of the same thing. When a sober and rational English writer talks of liberty, he means, not United States' liberty—he means a sort of free slavery, which to the people of this country would be quite intolerable. He means distinctions of rank; an established church with exclusive privileges; a hereditary monarch; hereditary nobles; hereditary legislators; hereditary distinctions of every kind; a system of orders in council; a representative assembly which does not represent the people; a nobility of incalculable wealth; a government of almost unlimited resources, derived from almost unlimited taxation. In short, by British freedom, he means almost every thing we took up arms to free ourselves from. In applying the language of England to political subjects, we have given a force and meaning to a vast many important words, which can hardly be comprehended by Englishmen themselves. The words are indeed the same; but in the expression of our feelings, and in their application to our situation, institutions, and government, they constitute, so far as they go, a different language. No foreign writer can, for this reason, speak so directly to the feelings and comprehension of the people of the United States, as one nurtured among them, partaking equally in the same original peculiarities, and standing in precisely the same situation with themselves, in relation to the subjects of which he treats.

For this, as well as other powerful reasons, every nation ought, as soon as possible, to have a literature of its own, adapted to its peculiar situation; addressing itself, on all proper occasions, to the national feeling; and administering, either directly or indirectly, as the subject may warrant, to the support of the national honour. To no people now existing, or that have ever had an existence, does this assertion apply more forcibly than to those of the United States. They stand alone in the world. Their government is peculiar to themselves; they have carried the practical application of free principles so far beyond any of their contemporaries, that not only the feeling of common interest, arising from similarity of government, no longer exists between them and other states, but it has become the common interest of all despotic or monarchical governments, to undermine their institutions, to misrepresent their character, and to weaken, by every open and insidious means, their attachment to free principles. Their example is every day becoming more dangerous to the existence of ancient abuses, and it would seem that nothing can preserve these from utter annihilation, but the people of the United States becoming traitors to themselves, and surrendering their indepen-

dence of thought at the shrine of imaginary European superiority. Believing, as we do, that much of the happiness of the present, as well as future generations, rests on the preservation of our pure republican forms of government, which, as they sprang from public opinion, must depend upon the continuance of that opinion, we will go so far as to say, that if there was no other objection to our indiscriminate adoption of foreign literature, its general inapplicability to our political situation, is alone sufficient to make us anxious for a school of our own. We do not mean a school barbarously independent of rules and models; but one of sentiments and opinions applicable to our moral and political state.

In a mere literary point of view, however, the great objection to a habit of imitation, is, that in its indiscriminate exercise, it is far more apt to select bad models than good. It is a trite saying, that it is much more easy to imitate faults than beauties; and hence it has almost always been found, that in selecting a writer for imitation, his prominent defects appear much more conspicuous than his excellencies, in the copy. Imitation also destroys all the charm of novelty, which is so important a constituent in works of imagination. This remark applies with peculiar force to an imitation of authors who write in the same language, and whose works are, as a matter of course, intimately known to almost every general reader in this country. An imitation of a classic, would only be detected by a classical reader; but an imitation of a popular English writer, admitting it were ever so successful, would only the more pall upon the general reader, to whom the original would be familiar. A general acquaintance and familiarity with English literature, is of the greatest advantage to a young American writer, in forming his taste, and enlarging the sphere of his knowledge and perceptions; but an abject imitation of any particular work, or any particular writer, if it does not bespeak inferiority, is pretty sure to create it in the end.

Imitation has another disadvantage; it is almost certain to follow the present fashion, whatever it may be. The gentle sex, from habit, education, and a facility of disposition, which only makes them the more interesting, do not adopt the fashion of a French bonnet with more eager alacrity, than an imitative writer does a new and fashionable style of writing. The most admired bard, or novelist, for the time being, is ever his pole-star and his oracle; and thus is the nation, among whom this habit of imitation prevails, for ever at the mercy of the taste of foreigners. At one period it was the fashion, never to string a lyre but to the measure of *Marmion* or the *Lady of the Lake*. All the peculiarities and irregularities of Sir Walter Scott's style of versification, which are now, and will always continue to be received by sound criticism as defects in his composition, were copied with the most happy success, by a vast many really clever poets, who seemed

to confine their efforts to an imitation of his blemishes, forgetful of the varied and intrinsic beauties that gloriously redeemed them all. Another class confined itself principally to the amatory effusions of Thomas Moore, which, uniting within themselves the charm of poetry and music, attracted the parasitical plants of literature, and those who could not reach his honeyed couplets, or epigrammatic voluptuousness, supplied their places with tuneless nonsense or bald indelicacy. To him succeeded Lord Byron, in whose patrician livery a crowd of ambitious young bards forthwith arrayed themselves, and whose occasionally fine deep-toned sentiment, harsh misanthropy, splenetic impatience, biting sarcasm, and querulous complainings, they imagined they imitated by railing at the world, and exhibiting all the burlesque antics of affected sentiment. The gloom of night came over the sunny region of fancy, and Parnassus was thenceforward enveloped in a veil of mists and obscurity. It is with mingled pride and pleasure we notice, that those of our native poets, who have attained the highest distinction, are free from a gross imitation of the peculiar style and manner of any particular fashionable model, and distinguished by certain individual characteristics of originality.

But all these successively conflicting tastes were at once swallowed up, and annihilated as it were, by the appearance of the "Great Unknown," as the critics have so long wilfully denominated the Author of Waverley. With a facility happy for himself, but we cannot help thinking, rather mischievous to the general dignity and interests of the higher species of literature, he adapted history to the purposes of romance, and by the resources of a memory which seems to have been inexhaustible in supplying materials for his imagination to embellish, he achieved one of the most singular triumphs, that of giving interest and variety to a series of fictions, of most unparalleled rapidity and duration, having a strong family likeness in their most material constituents, which would have been fatal to a writer of less vigour and vivacity. No author, probably, ancient or modern, was ever so well paid by the booksellers, or so universally read by all classes of people; nor can his acknowledged merits entirely and satisfactorily account for this overwhelming popularity. Good fortune, as well as uncommon felicity in the choice and manner of treating his subjects, undoubtedly co-operated in building up, almost in a single night, a reputation, which preceding writers, of at least equal merit, owed to time and to posterity. Much of this may be ascribed to Sir Walter Scott's genius; something to the influence of fashion; and not a little, probably, to an adroit and elaborate system of professional puffing, which we verily and in our hearts believe, Sir Walter despises as much as we do ourselves. All those who read at all, from the highest to the lowest, devoured with unsated appetite, these fictions, as they appeared with unexampled rapidity.

ty ; all admired with an intensity of fashionable enthusiasm, or at least those who did not admire, were ashamed to confess it ; and even the critics, whose business it is to discriminate, did homage to the universal taste, by indiscriminate praise. It was not in the nature of man, that an author, so fashionable, so successful, and so munificently rewarded, should not have found imitators, even had he possessed only a tithe of the excellence of Sir Walter Scott. Accordingly, the old school of novels underwent a complete French Revolution in England, and, by a natural consequence, in this country. The well-thumbed stock of the circulating libraries fell into the hands of kitchen maids, or into the fire ; the *Mysteries of Udolpho* could no longer keep people awake at night ; *Tom Jones* was ignominiously turned out of doors by the country squires, as he was by the good squire Allworthy ; Sir Charles Grandison gave place to a race of heroes who never made a bow in their lives ; Miss Edgeworth was eclipsed, though we hope only for a time, to emerge the more brightly ; the present age surrendered to the past ; romance became history, history, romance ; and truth was no longer to be found, not even in ladies eyes, or at the bottom of a well. Peers became romantic, and grave statesmen edited novels.

Numerous labourers, almost as a matter of course, appeared to cultivate this new and fertile field, which offered such a rich and plenteous harvest. They, however, for the most part, followed the track of all imitators ; they selected the faults of the great original, and left the beauties to take care of themselves. They worked up the occasional coarseness into pictures, characters, and conversations, disfigured by additional coarseness ; they improved upon adventures already carried, to say the least, to the highest allowable pitch of modern extravagance ; they caricatured those defects of plan and arrangement, which were the inevitable consequences of the rapidity with which these works were composed, by a total abandonment of all regard to propriety, connexion, or probability ; and when they happened to select a fine characteristic, or a striking personage for imitation, they, for the most part, seized the shadow, and suffered the substance to escape them : or they rendered what was before a picturesque novelty, trite, tedious, and vulgar, by unvaried repetition. The easy, flowing, and natural style of Sir Walter, (always excepting the mystical old ladies ;) the clear conception, and happy discrimination of character ; the rich unaffected sentiment ; the beautiful descriptions of scenery ; the animated action ; and above all, the strong infusion of good manly sense, which gives dignity even to occasional extravagance, all evaporated in the crucible of too many of these unskilful alchemists, who, instead of extracting the precious metals from the mass, contented themselves with transmuting the gold into lead.

The work which we have placed at the head of this article, is

an example of this most common species of imitation; although, beyond doubt, the production of one who could have done much better, had he trusted to his own original conceptions, or condescended to copy nature, as she may be found in this country, as well as in others. In the romance of Guy Mannering, perhaps the most pleasing and interesting of the Waverley series, if not the most perfect, appeared for the first time, one of those mystical women, who contributed, for a while, so materially to give piquancy to these productions. Meg Merrilies burst upon the world as a phenomenon, either in, or out of nature, people could hardly tell which; a creation hitherto unknown in works aspiring to a character of reasonable probability; a being of an order with which neither experience nor imagination had afforded us any communion. Ignorance, was in her, seen coupled with all the inspiration of eloquence; poverty associated with sublimity; rags with high-wrought sentiment; theft with heroism; female weakness with Herculean strength; ill health with powers of performing and enduring, what never woman before performed or endured; and royal declamation with beggarly housewifery. The combination was extraordinary, and as fashionable people delight in extraordinary things, Meg Merrilies was received with enthusiasm in the *Beau-monde*, which was quite sated with sentimental and lovelorn heroines. The character seems also to have been a favourite with its author, and has, with slight variations, been introduced into many of Sir Walter's subsequent romances. Meg Merrilies is, however, the great original, as well as by far the best of all the mystical tribe of declamatory ladies, to which she has given birth. There is not one of them that partakes so much of the incomprehensible sublimity; of such apparent omniscience, as well as omnipresence; and with the exception of "Norna of the Fitful Head," not one who can hold a candle to her in the noble inspiration of scolding.

From the first appearance of Meg, the race of female Ciceros multiplied exceedingly in the fertile regions of romantic fiction, though we have the best authority for assuring our readers, they have proportionably decreased in real life. The old ladies talked—"ye gods, how they did talk!"—we mean in the modern romances. Nothing could compare with the eloquent, overwhelming facility of their declamations, but the incomprehensible influence they exercised; the unaccountable impulses by which they were actuated; and the still more unaccountable means by which they accomplished their ends. Thenceforward, down to the present time, we have been so familiarized to the lecturing and Hectoring of these awful viragoes, that the stoutest female tongue in Christendom cannot appal us. Since the appearance of the Wa-

verley novels, we bid defiance to the whole race of scolding wives.

In process of time, the dynasty of declamatory spinsters and dowagers, passed over to this western hemisphere, and made their debut under various names, but without changing their individuality. One can always tell the stock whence they sprang, and detect the strong family likeness, however it may be disguised or caricatured. That they have lost nothing of the charm of eloquence, with which they were originally gifted by the enchanter, Sir Walter Scott, will sufficiently appear, from a short analysis, and occasional extracts from the work which has given occasion to the preceding observations.

It is not pretended that there is any thing new in what we have said, or have to say, on this subject. But from the application of these, and the hints which follow, to the situation and the literature of our country, it is possible that something may be drawn, which may be useful to succeeding writers. We have no other object in these remarks.

York Town, although it professes to be a "Historical Romance," has very little connexion with the real history of this country. The scene, it is true, closes at York Town, shortly after the surrender of Lord Cornwallis; but the denouement is very little dependant upon that event. The principal actors who control the conduct of the piece, and on whose agency the whole machinery depends, are foreigners. Colonel Walstein, and Maude Mansel, are both natives of Germany; and the following passage, taken from the close of the second volume, furnishes the key to their connexion, as well as to the mysterious influence the latter exercises over the former.

"He," colonel Walstein, "was the last descendant of a once powerful family, from which he inherited nothing, save a noble name, and the mouldering and almost uninhabitable ruins of an ancestral castle. But love promised to atone for the neglect of fortune. Matilda, or as she was usually called, Maude Steinkirk, was then in the first bloom of youth and beauty. Walstein saw her, and was captivated. Her father, a man of immense wealth, but without hereditary rank, willingly consented to bestow his daughter on one of noble birth. Maude was an only daughter, and the doting fondness, and extreme indulgence of her parents, had conspired to nurture all the foibles of her naturally strong mind, and to pervert those qualities, which, properly disciplined and directed, might have ripened into superior excellence. As it was, she grew up the creature of impulse; the sport of every wayward passion: and the purest and most elevated of human affections, became the source of all those crimes and miseries, which marked her after life, and rendered her the basest and most wretched of her sex. Her betrayer, weary of a conquest won too lightly to be prized, soon quitted her; and, overwhelmed with shame, and conscious guilt, she fled with one whom she had often spurned, and became an exile from her home and country.

"Her brother sought the seducer of his sister, and challenged him; they fought, and young Steinkirk fell by his adversary's first fire. Walstein was forced to quit the army, and seek safety in flight. Shame and suspicion followed him everywhere, and there was no rest for him, till he reached the shores of America. He entered into the service of its sovereign, and when the conquest of Canada re-

stored peace to its borders, he married the sister of Edward Leslie's father, and established himself in Virginia, the birthplace of his wife. He had married from prudential motives, and was a stern and cold husband to one who had given him a heart warm with the tenderest and purest love. His early hopes had been blighted—blighted by the mildew of his own irregular passions; and, exiled from his country, severed from the friends and attachments of his early years, his mind became embittered; and gloom and discontent engendered misanthropic feelings, which deepened his hatred to the world, and made him shun society.

"Shortly after his marriage, accident renewed his intercourse with Maude Steinkirk. She had preceded him to America, and married the man who was the companion of her flight; but he became the wretched victim of her ill humour and caprice; the object of those angry upbraidings and querulous complaints, in which her proud and disdainful spirit was wont to indulge itself. Yet all that was once kindly in her nature, had not quite deserted her; but it soon withered, beneath an influence which nothing pure or good could long survive. She formed a new league with her betrayer; a league which involved the fate of more than one individual, and which was deeply stained with guilt and falsehood. One step led to another, and they plunged deeper and deeper into sin, till they found themselves entangled beyond all hope of extrication. Their mutual upbraidings, threats, and recrimination, increased the mutual hatred which had gradually usurped the place of a more passionate sentiment, and converted every vestige of former tenderness, into the gall of utter detestation and abhorrence. Maude was regarded by him, as the being who had quenched his hopes of fame, and darkened the fairest prospects of his youth; as the cause of all those misfortunes, and all that wretchedness, whose origin he should have sought in the wickedness of his own heart, and the unrestrained indulgence of his own corrupt passions."

The detestation of Maude, on the other hand, is not a whit behind that of the colonel; and these two amiable beings never meet without quarrelling most bitterly. The colonel has a nephew and niece, to whom he is guardian, and Maude a son, to whom she is determined this fair lady shall be married. The colonel, on the other hand, for some inscrutable reasons, is as determined that she shall marry colonel Clifford, a British officer, whom we find a frequent visitor at his house. The young lady is however resolved to please herself, and falls in love with a young French officer, whose mysterious birth, parentage, and education, are not developed, except by occasional oracular hints of Maude, till the surrender of Cornwallis, when he turns out to be the son of count D'Aubigne, and the cousin of the fair heroine. They are married; the husband succeeds to the title in good time, and the consummation of all human happiness to a young married lady, occurs in a trip to Paris. The colonel gives the lie to destiny, by being accidentally drowned; and Maude, after scolding terribly through a few pages, is found one morning stretched lifeless, on the lifeless body of her son, who had been mortally wounded at the siege of York Town.

The interest of the tale, is evidently intended by the author, to turn upon mistress Maude Mansel, who is of the highest order of mystical viragoes. She dreams dreams; she sees strange sights; she delivers oracles and prophecies; she believes in the moon; she has the strength of two Sampsons, and the tongues of

ten members of congress; she is always out at night in the rain, and seldom appears except accompanied by thunder and lightning, the inseparable attendants on ladies of her sublimity. Nobody can tell whence she comes, or what is her object in coming, except it be to scold; and nobody knows whither she vanishes, or why she departs in such a hurry. She never commits the vulgarity of walking, but always stalks, or flits away most majestically—she is here, there, and every where; she is sometimes in male, and sometimes in female attire; she deals in hints, inuendoes, mysterious threats, and diabolical anathemas; is always threatening terrible things, yet doing nothing; always plotting, to no purpose; always in a furious passion about something, and always talking in a strain, such as no human being ever talked, out of Bedlam, except in a modern historical romance. The first appearance of this mysterious mummer is thus described:—

“There was a momentary suspension of speech and employment throughout the apartment, when the tall strange-looking woman stalked silently in, followed by major St. Olmar, and every eye was simultaneously turned towards her, with a strongly marked expression of surprise and curiosity. The scarlet cloak and hood, which enveloped her person, were drenched with rain, but these she flung back, revealing to those present, of whose gaze she seemed utterly regardless, a form, thin almost to emaciation, and a visage wrinkled as if with the blasts of eighty winters, though as yet it had not witnessed threescore. Her eyes alone might have appertained to a youthful face—there was something supernatural in their terrific brightness—something in their fixed and piercing gaze, that made one shrink as if from the deadly glance of the basilisk. Her dress was according to the fashion of the times—shoes fastened with ponderous buckles—a short full petticoat of drab-coloured shalloon, an open chintz gown, a lawn handkerchief pinned across her breast, with the precision which at that period marked the dress of all classes; and a cap of the same material, from beneath which strayed the tresses of her long hair, whiter and more glossy than threads of silver.”

Perceiving some wounded soldiers in the apartment, she breaks out:—

“There will be vengeance taken, for these gaping wounds; not one shall bleed in vain; the ravagers may slay, and flee when they have slain; but the reckoning day will come, and that ere long.”

Her attention is then arrested by the appearance of major St. Olmar:—

“As she looked with almost trembling earnestness upon him, her striking countenance betrayed the workings of sudden and powerful emotion; while he, though he bore her gaze in silence, felt the insufferable brightness of those strange eyes thrill through every fibre of his frame, and instinctively turned aside to avoid them. But at this juncture, she darted towards him, and holding him at arm’s length, with a muscular power which he was unable to resist, she continued to read every lineament of his face, with a passionate eagerness, which he could only ascribe to a disordered intellect. Anxious to divert her attention from his person, he attempted to speak, but she vehemently interrupted him: “That eye! those brows!” she said—“Young man, tell me, in God’s name, who you are?”

St. Olmar tells his name.—

“St. Olmar!” she repeated, in a doubtful and less impassioned tone; and unclasping his arm, which she had held till now, she folded her arms across her

breast, and remained for a few moments musing. Then, as if a sudden recollection had darted through her mind, she hastily approached him, and laying her withered hand upon his brow, lifted the dark curls which clustered around it; and gazing for an instant upon three somewhat singular moles, which appeared high upon the right temple, pushed him from her, and covering her face with her hands, uttered a shriek so wild and piercing, that even the dying soldiers seemed startled at the sound."

St. Olmar beseeches for an explanation; but, true to the attributes of her *caste*, the virago, after uttering a few mysterious hints, cutting a few more capers, and frightening the dead—we beg pardon—the dying soldiers, puts on the following unaccountable appearance, makes the following inexplicable speech, and as usual, stalks off with a dignity peculiar to this class of ladies:—

"Her wild laugh of irony, rang through the low-arched cellar"—(what a pity we have no "donjon keeps" in our country!) "as she ended, and her eyes, like living coals, shot forth a fierce, unnatural light. She looked, indeed, a very sybil; as she stood leaning against the damp gray wall, the feeble rays of the candle partially illumining her figure, and casting a still more deadly hue over her sallow countenance—her cap pushed far back from her wrinkled forehead, her gray and bushy eyebrows projecting over those unearthly orbs, her long white hair streaming upon her shoulders, and her bare and shrivelled arm stretched forth with a gesture well suited to her look and words.

"You are in a wild mood to-night, Maude, and the moon is not at its full, either"—observed Edward Leslie, an old acquaintance.

"And there is *that*, boy, to make me wild, which you dream not of," she returned, dropping her extended arm, and standing erect as before—"Influences more potent than the fickle moon, which drives me sometimes almost to the borders of insanity. But this night—aye—this very night, I have seen that which has fired my brain, and awakened memories that I would fain have sleep for ever."

Again, a few pages further on:—

"Maude's eyes gleamed wildly, as she vehemently exclaimed, 'Why is it, do you ask! Know me but a space longer, young man, and you will never seek to learn the motives of my wayward humour. God has fathomed, and will judge them; but mortal man, save one alone, from whom I cannot hide them, shall never read the secrets of this dark and sinful heart.'

And again:—

"Young man," said Maude, with a menacing look, "the feeble sparrow is not more in the power of the greedy kite that bears her through the air in her talons, than thou art in mine; beware, then, how you trifle with one whose vengeance never dies unsatisfied. Once more answer me, with truth—did you know that face?"

Thus she goes on talking in high-flown hyperbole, which no one can comprehend, and acting from motives which her hearers can never fathom, until the catastrophe at the close of the second volume, when she finally explodes in the following valedictory; swallows laudanum, and dies on the body of her unfortunate son, whose situation and character afford ample proof of what the author of this work could achieve, were he content with nature and probability in constructing his fictions.

"Away, all of you!" she said, with a stern and determined look. "Away! nor cast your seed upon a soil, where all that was ever good, has long since been choked and withered by the thorns and tares of passions. Go, try your clo-

quence on softer hearts! for me, I am a reprobate! Why else through life have I rejected good, and sought the paths of evil? It was my fate; and wherefore should I struggle with it? From all eternity, it was ordained that I should perish, and I am prepared to meet my doom. Now go, and leave me to wrap the winding-sheet around my son; to array once more those comely limbs, which I have often decked with a mother's pride."

The next morning, the body of Maude is found, as described in the following passage; which is quite sufficient to fill us with regret, that the writer did not oftener condescend, in the work before us, to bring down his genius to the level of human wants, of natural feelings and descriptions. The picture is striking, affecting, and moral.—

"All there was quiet; and it was the dread and dreamless quiet of the last unbroken sleep. Rupert, in his grave clothes, his face covered with a napkin, and his hands crossed peacefully upon his breast, lay stretched upon the bed where he had breathed his last. It was sad to look upon that youthful form, thus early snatched from life—but there was hope and comfort in the hearts of those who mourned; for *he* was good and virtuous, and he had gone from a world of trial, to reap the rewards of a pure and blameless soul. But alas! for her, his wretched mother! all recoiled with horror as they beheld her, and thought upon her past life, and the terrors of her eternal destiny. She was lying on the floor; her cap had fallen off, and her white locks hung in dishevelled masses over her face and arms, partially concealing the distorted features, which still bore traces of the recent agony that had convulsed them. Beside her, lay an empty vial, labelled "*laudanum*," the contents of which had terminated the wicked career of one born to better fortunes. She died, as she had lived, the miserable victim of passion."

Here all is natural, and the situation, such as might, and does occur in real life. There is neither inflated description, nor inflated language—no attempt to give a disproportioned and fantastic pomposity to the simple picture of death. Yet, we are mistaken, if the reader will not bear testimony both to its pathos and sublimity, and regret that the author should have wasted his powers in the unsuccessful endeavour to imitate, what in its most successful examples, hardly deserves imitation. A departure from nature, is, we cannot help thinking, a proof either of a bad taste, or a barren genius; since it is only those who are destitute of the higher powers of invention and description, that despair of giving beauty, variety, and interest, to probable incidents and natural characters. It is a vulgar error to suppose it a proof of superior intellect, to create monsters. The fame of Shakespeare does not depend upon his Caliban; and had this been the only creation of his almost unrivalled genius, he would never have become the object of idolatry to millions of intellectual beings. The most crude and impoverished mind, is generally the most fruitful, in caricatures of passion, and outrages upon probability. A miracle is the easiest possible way of bringing about events; it requires little exercise of invention, and less of judgment. Agents beyond the sphere of nature, and subject to none of her laws, are easily managed; and actions equally beyond the reach

of probability, are as easily enlisted in our service; but to bring about striking events, to produce interesting characters, and arrive at an affecting or splendid catastrophe, by the management of probable incidents and natural instruments, is the work only of a master-mind.

But whatever may be thought of the abstract excellence of such materials as compose the romance under consideration, and such a class of beings as the Meg Merrilies school, we must be permitted to question if the one or the other can be naturalized in the romances of this country. They belong to a different soil, and appertain to a different state of manners, from any which has ever prevailed here, at least among the descendants of Europeans. They are neither historical nor traditional, as in many other countries; they claim no association with modern manners, nor connexion with recent events; they are the offspring of distance and obscurity; cradled in the mists of unsubstantial fiction, or woven in the web of distorted truth. The justly distinguished author of *Lionel Lincoln*, found the impossibility of naturally connecting the agency of this mystical, mixed, and incongruous race of sublimated old ladies with recent events and well known localities. There was an insuperable obstacle to their reception, in the experience of the good people of Boston; and the very evidence of their senses convinced them that such adventures, and above all, such people as some of those who exercise so powerful an agency in that work, never were connected with events so recent, and scenes so near, as the battle of Bunker Hill, and the hill itself. The region of romance and improbability is beyond the reach of the naked eye, and its era is equally remote. So far as the mere evidence of our senses extends, there is nothing miraculous—or if miraculous, use soon makes it appear natural. Even credulity expects to be treated with some little ceremony; and a person that would believe and tremble at a wonder which happened in a distant land, or a remote period, would feel insulted at having it located right under his eye. It might be quite as impossible in one place as in the other; but still it would not involve the same contradiction of the actual evidence of our senses, and would consequently leave room for the imagination to operate upon our belief. A traveller inclined to rhodomontade, always goes as far from home as possible; and a writer of romance, if he means to draw a long bow, and tax our credulity rather heavily, had better not lay his scenes at home, nor attempt to revolutionize events so recent as those of our Revolution. If, on the contrary, he intends to keep within the bounds of nature and probability, he may venture upon these themes and times with perfect safety. A discriminating imitator of Sir Walter Scott will bear in mind, that his romances are those of other ages and countries; and that in proportion as

the scene is laid nearer as to time or space, he relaxes in favour of probability both in characters and incidents.

The clouds of ignorance and superstition, which in turn passed over the nations of Europe, and constituted what are called the dark ages, had, in a great measure, rolled away previous to the first settlement of the United States. The only agency beyond natural causes, recognised by the Puritans, was, with a single exception, that of the Deity, to whose immediate interference was ascribed every good and every evil.* The former was ever the reward of virtue, the latter the punishment of vice. No fairies danced upon the green sward by moonlight; no malignant or beneficent beings, such as peopled the sequestered valleys of Greece, or the deep gloomy woods of the Scandinavians, sported with the hopes and fears of our forefathers; or interposed between them and the direct decrees of the divinity. They believed in no other influences than those which were sanctioned by the Bible, and this belief naturally predisposed them to acknowledge the existence of witches, which presents a singular exception to their stern rejection of Gothic fictions, and classical mythology. The witch of Endor has always furnished the believers in witchcraft with an unquestionable evidence of its having once existed, and credulity is ever irresistibly fortified by a reference to this solitary example. But the age of witchcraft soon passed away from among them, and it is not the least singular fact, that it found its most strenuous supporters and advocates among the most orthodox and learned of the clergy. Cotton Mather, unquestionably one of the best scholars and most deeply read divines of New-England, has left in his *Magnalia* sufficient evidence that there was nothing too extravagant in relation to witchcraft for his boundless credulity. Admitting, however, this exception, we think ourselves warranted in saying, that the people of the United States, as a body, are, and ever have been, far less superstitious than any other of ancient or modern times.

Strictly speaking, there has been no dark or romantic age, in this country, connected with its European race. The adventures, the sufferings, the conflicts, of our forefathers, besides being of a recent date, all partook of severe reality. Hunger and privations of every kind; the pestilence and the savage, each walking alike in darkness; the pressure of perpetual dangers, and the necessity of unceasing exertion, left them but little leisure for the exercise of the imagination, in conjuring up fantastic creations. The Ban-shée, the Cluricaune, the sage enchanter, the mischievous pack of fairies and goblins—all the romantic and seductive brood of idleness and superstition, gave place to Indians, and to privations of every kind. The only spectre that stalked before them was that

* See Morton's "New-England Memorial," and all the early Annalists.

of Hunger ; the only midnight beings they feared were the savages. Idleness and security are the great parents of imaginary fears, and imaginary beings. Of these, the descendants of Europeans in this country, have never, until lately, possessed any great share. All has been labour, and exposure, and reality, with them.

Our history and tradition consequently connect themselves but awkwardly with every thing supernatural, or out of the ordinary course of nature. They recognise no miracles, except such as have been achieved by human genius, enterprise, and energy, under the protection of Providence. The enchantment which has changed the face of nature, and made the wilderness to blossom like the rose, is not that of Grecian or Gothic lore, but the work of industry and enterprise. The dangers encountered and overcome, have been all real ; the enchanted sword, and invulnerable armour of Orlando, were here superseded in the achievement of wonders, by the axe and the sword of the patriot, and the panoply of a bold heart. Whatever there is of romantic in our history, is as much matter of fact, as the most ordinary occurrences. The same may be said of our traditions, which, though undoubtedly daily becoming more and more exaggerated, seldom, if ever, partake of any extraordinary agency. The feats of strength ; the powers of endurance ; and the extraordinary circumstances so frequently attendant on our early border stories, however startling to the men and women of these degenerate days, are always unaccompanied by the least hint of any assistance, but from a benignant Providence.

Modern romance is the combined offspring of history, tradition, and fancy. It would seem obvious therefore, that when confined within its proper limits, it should never be permitted to distort, exaggerate, or falsify, the events preserved either in history or tradition. Its business is to embellish history, and make tradition more probable, by arranging a series of events and causes, so as more naturally, or more interestingly to bring about the catastrophe of the story. Its best, if not its only support, is the belief of mankind ; or at least, that acceptance voluntarily accorded by us all, to the tales we have listened to, and the impressions received in early youth. A work of fiction, the production of this, or any age, posterior to the general introduction of Christianity, supported solely by the agency of the gods of Greece, would hardly succeed even in the present period of almost unbounded license. It is undoubtedly true, that the early poets and romance writers of Europe, exhibit a strange mixture of Christian and Pagan supernatural agency in their works, because the human mind may be said to have been in those days, pretty much in the situation of the Holy Land, where the Infidel and the Christian were struggling for mastery. Taste as well as

orthodoxy, now unite in pronouncing the union of the two mythologies inadmissible. The Pagan system is recognised and admired in the ancients, because, although we do not believe in it, we know that they did. It was sublime in them—it would be ridiculous in us.

We will now beg permission of the reader, to apply these principles to the composition of American works of fiction, whether romance or poetry. If they are just, as we believe them to be, it would seem to follow, that our writers of this description, who lay the scene of their fictions at home, and whose actors are exclusively of European descent, should be careful to preserve a certain chastened and regulated veneration for those bounds, which the history and traditions of this country have never passed. They should be sparing of wonders, and chary of impossibilities; they should confine themselves to human events for incident, and human characters for agents. They should never for a moment permit themselves to believe, that an American cellar, or an old deserted shed of one of our populous cities, is a proper location for adventures entirely appertaining to the impenetrable solitudes of dungeons and forests; or, that characters and incidents exclusively belonging to an age of licentious barbarism, and lawless passion, will naturally and gracefully assort with a matter of fact revolution, in which a considerable portion of our every day acquaintance actually bore a part. The fashion of the moment may accord a splendid reception to such violent incongruities; but when that has passed away, admiration of their beauties will give place to wonder that they should ever have been admired.

As the romance writer recedes from the present time, or the domestic sphere of action, he may indulge a greater latitude of improbability. If the scene is laid in Scotland, two or three centuries ago, he may be allowed to storm a castle without the king's warrant; to introduce a reasonable number of outlaws; a dwarf, a goblin, and one mystical old lady, invulnerable to wind or weather, of whom it shall be doubtful whether she belongs to this world or some other. If the scene is laid in Italy, he may lawfully indulge in a mysterious monk, with an awful sepulchral voice, a bald head, and a cowl obscuring such eyes as were never seen in any other human head, except, perhaps, that of Maude Mansel. As he enters the sunny regions of the glowing east, the sphere of probability gradually enlarges; talisman and genii, magicians and necromancers, are ready at his call, and the license of fiction becomes without limits or obstruction. The invention of means is there no longer necessary; for exactly in proportion as the author can command genii and talisman, does the necessity of taxing his genius to produce a striking effect, diminish. The writer who can subsidise these auxiliaries, will overcome

difficulties, with as much ease, as Jack killed the giants after he became possessed of the invisible coat and the enchanted sword. A resort to unnatural means, to bring about natural events, is, we think, however, the expedient of an impoverished, rather than an exuberant intellect. There is little inventive power exercised, in enlisting a god, a genii, a fairy, or a talisman, to bring about a catastrophe, which the author had no resources of his own to produce.

If, however, a writer of this country, wishes to make its history or its traditions the subject of romantic fiction, high wrought, obscure, and somewhat extravagant, agreeably to the taste of the times, he must go back to the aborigines. It is there that the materials of character, situation, and superstition, are to be found in abundant profusion; it is among them that life is full of romance and adventure; that high figurative eloquence and unrestrained passions of the most heroic kind, are the ordinary attributes of tribes and nations. It is there, that magic is a part of religion, and that supernatural agency directs every thing, from the course of the arrow, and the nightly dream, to events which involve the fate of a world. All that we have attempted to establish in this discussion, is the necessity of discrimination in the selection of a proper site, a proper subject, and a proper era for the exercise of invention, or imitation, in the construction of works of imagination.

But if our history and traditions are somewhat barren in supernatural materials, they abound in subjects for the most affecting and beautiful fictions, resting upon actual events. For the display of domestic virtues; of persevering heroism; of unconquerable endurance; of hardy enterprise; inflexible faith, and fearless gallantry; we have only to look back upon the course of our forefathers, for plenty of examples to embellish and give interest to poetry and prose. Such materials, well selected and dexterously employed in the creation of works of fiction, although they may not reach the momentary zest of more extravagant productions, will yet be found by experience to exercise a more lasting dominion over our feelings. They are natural; of course they belong to all ages, and do not depend upon the reputation of the author, or the caprices of fashion. The stars become invisible during the lightning; but the lightning is only momentary, the stars are perpetual. It is so with nature, not only in her own works, but in the works of her followers. They may be outshone for a moment by some more gorgeous spectacle, and withdraw for a little while our attention; but it is only to return with renewed vivacity, to refresh ourselves in her shady bowers; to listen to her warbling birds and murmuring brooks; to gaze on her meadows, her mountains, and her skies. The purity, tenderness, simplicity, and truth of delineation, exhibited in

the fictions of Miss Sedgwick and Mrs. Hale,* not only require more talent, but to us, are a thousand times more touching and exciting, than the extravagant incidents of "York Town," or the ravings of a legion of Maude Mansels, on which our author has wasted talents of no ordinary excellence.

In conclusion, we beg to take this opportunity to express with unfeigned deference, our regrets at observing the vast space occupied by historical fictions in the literature of the day, and in the estimation of the gravest readers. They possess neither the authority of truth, nor the novelty of invention. The infusion of romance into history, cannot, we think, but have a bad effect on the reader, by rendering the dull matter of fact of the latter, tasteless and spiritless, in comparison with the piquant extravagance of the adulterated mass, and weakening at the same time that salutary distinction, which the mind should always preserve between truth and falsehood. The imagination ought not to be pampered thus, at the expense of the other faculties; nor, as it seems to us, can the mind be employed to less salutary purposes, than in constantly banqueting at this feast of Shacabac, where the guests only are real, and all the rest imaginary. There is, we think, some little reason to fear, that this increasing rage for the adulteration of truth, historical, biographical, and narrative,—this superstructure of inflated sentiment and extravagant action, erected on the basis of fact, will, if much further indulged, at length lead step by step to another age of bombastic and fantastic fiction, which will require another Cervantes to put it to flight, if another such man can ever live again. Every history will then perchance become another chronicle of Archbishop Turpin or Francis de Guevara, and no hero will pass current unless he can perform impossibilities. History cannot be studied to advantage in romance, because this mixture of truth and falsehood confounds the mind, renders it at length incapable of distinguishing the facts from distortions or embellishments, and finally weakens that salutary reliance upon the reality of the past, on which no inconsiderable portion of our reverence for truth itself is founded. There is nothing in this world so beautiful as truth; and so universal is this proposition, that where the taste is mature and unadulterated, it will be found, that all works of imagination or invention, derive their most peculiar charm from their close adherence to Nature, which is but another name for Truth.

* Author of Northwood.

ART. III.—*The Principles of Political Economy, with a Sketch of the Rise and Progress of the Science.* By J. R. M'CULLOCH, Esq. Edinburgh. 1825.

IT is the remark of a distinguished writer of our day, fully competent to form a judgment on the subject, that if the science and records of astronomy were now to perish, fifty years would almost suffice to the accurate instruments and powerful analysis at our command, to restore it to its present nearly perfect state. And some of the eminent men have scarcely quitted the stage of life, who contributed, by the introduction and continued application of weights and measurements to experimental research, to the creation of our present science of chemistry. Political Economy affords another striking illustration of the intellectual energies of the age in which we live. Half a century only has elapsed, since the publication of the "Wealth of Nations" gave it a place among the sciences; and already its chief laws have been investigated, and founded on the firm basis of the acknowledged principles and feelings of human nature. Resisted during its progress by the existing prejudices of society, the established policy of governments, and the interests of privileged classes,—and even regarded by the philanthropist, as inconsistent in many of its views with our nobler and kinder feelings,—as hardhearted and sordid,—all obstacles are at length disappearing, its practical utility is confessed, and its beneficent effects are widely felt. The statesmen of the day are gradually adopting its principles, and the period may be sanguinely anticipated, when the policy of nations, external and internal, shall be guided by its maxims.

Two discoveries have chiefly contributed to the present improved state of Political Economy,—the principle of population, and the true theory of rent. The former was first published to the world by Mr. Malthus, in 1798. In ascribing this discovery to Mr. Malthus, we are aware that several anticipations of it are to be met with in the works of preceding writers, and, perhaps, by none of them has it been stated with more clearness than by our own Franklin. These anticipations, now that the principle is more generally understood to be of primary importance, are frequently brought forward to detract from the originality of Mr. Malthus's views. But without doubt, he was the first to perceive the full value of the principle in question, and to trace its practical effects, and its influence on the happiness of mankind. He has also the merit, contemporaneously with Mr. West of Oxford, to have been the first to perceive the true nature of rent. He did not, however, distinctly penetrate its relation to the various departments of the science, and he has failed to deduce the

important consequences that necessarily flow from it. This was reserved for Mr. Ricardo, who, on the principle of population and the theory of rent, has founded an explication of the phenomena of Political Economy, which has given it altogether a new aspect. His work on the "*Principles of Political Economy and Taxation*," published in 1817, is distinguished not only for the new truths elucidated, and errors exposed in it, but for the remarkable precision, approaching very frequently to mathematical accuracy, with which he treats his subject. It is, nevertheless, very far from being an elementary treatise; nor was it intended to be such. The author seems to have addressed it to readers already well acquainted with the existing state of the science. To the student it presents a very forbidding approach to a knowledge of its contents; and, making every allowance for what may have been the principal object of the writer, it wants method, and is too abstract, and too unadorned with interesting illustration. The subject, in the hands of Mr. Ricardo, has assumed a dry and metaphysical character not essential to it. This, we think, has chiefly arisen from the undue importance attached by him to his favourite theory, of the labour employed in the production of any commodity being the measure of its exchangeable value; a theory, if true, of no practical utility, and a constant reference to which, in all discussions involving the exchangeable value of things, has the effect of complicating and rendering difficult many branches of the subject, which may otherwise be exhibited in a form abundantly simple. But, notwithstanding these defects, with his more devoted followers, we consider Mr. Ricardo as the second father of Political Economy, and have no doubt that, while others shall be found to give a more luminous account of its doctrines, and to add to its discoveries, his "*Principles*," like the *Principia* of Newton, will remain a durable monument of the superiority of his genius.

Of the works which have appeared since that of Mr. Ricardo, and were intended by their authors to supply his defects, by presenting an elementary and methodical outline of Political Economy, none has more merit than that of Mr. M'Culloch, the title of which is prefixed to the present article. It is remarkably neat and perspicuous in its style, the illustrations are often very happily chosen, and much judgment has been displayed in the arrangement of the parts. The book in its present form, is an enlarged edition of the article on Political Economy, in the valuable supplement to the *Encyclopædia Britannica*, published some time since at Edinburgh. This article has been republished in this country, under the title of *Outlines of Political Economy*, with some judicious and useful notes by the American editor, the Rev. Dr. M'Vickar of New-York. In the new edition, some matter has been omitted, a few transpositions in the ar-

rangement, of slight importance, have been made, and several topics, necessary to a general view of the science, have been discussed, which were passed over without notice in the article in the Encyclopædia, because treated of under separate heads.

It is now so long, however, since the appearance of that article, and even since the publication of the American edition of it, that we should not have noticed the work before us, whatever might have been its merits as a succinct and able exposition of the doctrines of the "school of Ricardo," if it had not differed from its predecessor on some very fundamental points, and did not the high reputation and authority of Mr. M'Culloch, give great weight to his peculiar opinions, and a sanction to the changes proposed by him. The points of difference to which we allude in the two editions, relate to the definitions of Wealth and Capital. In the "*Outlines*," by wealth is said to be meant "those material products which possess exchangeable value, and which are necessary, useful, or agreeable to man:" and capital is defined to be "that portion of the produce of labour, which is saved from immediate consumption, and employed in maintaining productive industry, or in facilitating production." It is obvious, that the terms are here used in their most common acceptation at the present day, among political economists, whatever criticisms may be passed on the phraseology employed in defining them. In the "*Principles*," other definitions are given, which, if generally adopted, must affect much of the language, and even in a considerable degree alter the form of the science; and which should, therefore, be well examined before their claim of admission into it be allowed. The innovations proposed by Mr. M'Culloch, have been suggested by his views with respect to Adam Smith's distinction between productive and unproductive labour; a distinction considered, by most writers, as essential to a clear understanding of the principles of the science, but rejected by our author as useless, and even calculated to lead to material and practical error.

We intend, in the present article, to inquire into the nature and propriety of such a distinction, to trace its relation to wealth and capital, and to offer our views of the most proper definitions of these terms. No one acquainted with the subject, will regard our purpose as unimportant, however uninteresting some may be disposed to deem a dissertation relating merely to the propriety of definitions. It is a commonplace observation, that the vagueness and ambiguity of language, have largely contributed to the errors and controversies, which have perplexed and retarded the progress of the moral and political sciences. But Political Economy surpasses all its kindred branches of knowledge, in a liability to errors of this description; a liability which constitutes the chief impediment to its progress; for it is, perhaps, not too much

to assert, that most of the differences which have prevailed among political economists, or now exist among them, have had merely a verbal origin. This is owing to the circumstance, that the technical terms, employed by them, are, at the same time, words in common and general use, and are consequently significant of ideas, familiar to the minds of almost every individual of the community. On this account, they are the more liable to be transferred to the expression of analogous ideas. Dr. Johnson enumerates no less than seventy different meanings to our common English verb *to go*, which occupies several columns in his dictionary, when mere terms of science or art are disposed of in as many lines.

Few words have had the lot of being defined more variously, and of being used with a greater latitude, than the word *wealth*. For some time, almost every writer on Political Economy gave the world a new definition of it, on which was based a corresponding modification of the science, merely verbal; and thus the credit of originality was very cheaply earned, while, instead of assisting to advance our knowledge, very frequently, by unsettling established classifications, and confusing the language employed, a contrary effect was produced. So with the term *productive labour*. This has generally varied, in its acceptation, with that of *wealth*; most writers having understood, by *productive labour*, the labour directly productive of *wealth*; and by *unproductive labour*, all labour not thus productive. The advocates of the mercantile system, for example, indentifying *wealth* with *money*, regarded no labour as productive, which is not instrumental in increasing the quantity of money in a country. Where there were no mines of the precious metals, foreign commerce, and this only when it was accompanied by a favourable balance of trade, together with the industry that contributes to it, was esteemed a national benefit. All private gain, however derived from the exertion of the most laborious industry, if not proceeding from this source, was only so much taken from the pockets of other citizens, and in no way a public gain. Quesney, and the French Economists, from the existence of rent, that is of a surplus after deducting the profits of the capital invested on the land, were led to infer the exclusive productiveness of agricultural industry. They asserted, that, whereas in manufactures and commerce, man laboured alone, nature co-operated with him in agriculture; and they further supposed the labour of man to produce a value only equal to what he consumed. From these premises, entirely hypothetical and demonstrably false, their conclusion was legitimate, that the labour employed in agriculture was alone productive; though, properly speaking, it could be considered such, only as it gave occasion to the gratuitous pro-

duction, by natural agents, of an addition to the national wealth, in the form of rent.

It is remarkable, that Adam Smith should nowhere have given a formal definition of wealth, when the whole object of his celebrated work was to inquire into its nature and causes. Throughout his work, it is clear, however, that he limits its application to material objects. To be productive of material objects, having exchangeable value, is with him to be productive of wealth; and agriculture, manufactures, and commerce, are all of them productive. Every person engaged in producing wealth, is denominated by him a productive labourer; and every one whose labour is not so applied, is said to be an unproductive labourer. We shall follow Mr. M'Culloch's example in quoting Dr. Smith's very plausible statement, familiar as it must be to every person moderately versed in Political Economy.

He remarks, that—

“There is one sort of labour, which adds to the value of the subject upon which it is bestowed: there is another which has no such effect. The former, as it produces a value, may be called productive, the latter, unproductive labour. Thus the labour of a manufacturer adds, generally, to the value of the materials which he works upon, that of his own maintenance, and of his master's profit. The labour of a menial servant, on the contrary, adds to the value of nothing. Though the manufacturer has his wages advanced to him by his master, he, in reality, costs him no expense; the value of those wages being generally restored, together with a profit, in the improved value of the subject upon which his labour is bestowed. But the maintenance of a menial servant never is restored. A man grows rich by employing a multitude of manufacturers: he grows poor, by maintaining a multitude of menial servants. The labour of the latter, however, has its value, and deserves its reward as well as that of the former. But the labour of the manufacturer fixes and realizes itself in some particular subject or vendible commodity, which lasts for some time, at least, after that labour is past. It is, as it were, a certain quantity of labour, stocked and stored up, to be employed, if necessary, upon some other occasion. That subject, or what is the same thing, the price of that subject, can afterwards, if necessary, put into motion a quantity of labour equal to that which had originally produced it. The labour of the menial servant, on the contrary, does not fix or realize itself in any particular subject or vendible commodity. His services generally perish in the very instant of their performance, and seldom leave any trace or value behind them, for which an equal quantity of service could afterwards be procured.”

“The labour of some of the most respectable orders in the society, is, like that of menial servants, unproductive of any value, and does not fix or realize itself in any permanent subject, or vendible commodity, which endures after that labour is past, and for which an equal quantity of labour could afterwards be procured. The sovereign, for example, with all the officers both of justice and war, who serve under him, the whole army and navy, are unproductive labourers. They are the servants of the public, and are maintained by a part of the annual produce of the industry of other people. Their service, how honourable, how useful, or how necessary soever, produces nothing for which an equal quantity of service can afterwards be procured. The protection, security, and defence of the commonwealth, the effect of their labour this year, will not purchase its protection, security, and defence, for the year to come. In the same class, must be ranked some, both of the gravest and most important, and some of the most frivolous professions; churchmen, lawyers, physicians, men of letters of all kinds; players, buffoons, musicians, opera-singers, opera-dancers, &c. The labour of the meanest of these has a certain value, regulated by the very same principles

which regulate that of every other sort of labour; and that of the noblest and most useful, produces nothing which could afterwards purchase or procure an equal quantity of labour. Like the declamation of the actor, the harangue of the orator, or the tune of the musician, the work of all of them perishes in the very instant of its production."⁹

From this statement, we think it must appear evident, that the sole reason why Adam Smith ascribed a peculiar importance to the labour, which, to use his own language, becomes fixed and realized in some material subject, is, that material objects alone are capable of a certain degree of duration, which admits of their being accumulated. We shall by and by endeavour to show the error of this opinion, and that what are sometimes denominated immaterial products, and are said to perish in the very instant of their production, are susceptible of accumulation, in a sense perfectly analogous to that in which the term is understood, when applied to matter. In the mean time, granting this property to belong exclusively to material objects, they alone can constitute any portion of *capital*; and since, in any existing degree of the skill with which labour is applied, the progress of a nation in wealth must depend on the amount of its capital, when compared with what is consumed as revenue; it was deemed important, in a science, whose object is to trace the circumstances which conduce to this progress, to discriminate between the labour productive of utility, when added to matter, and that which yielded only immaterial products, however great the utility of these might be. Hence the former was denominated productive, and the latter unproductive labour; and as the definition of wealth, was at the same time restricted to material products, productive labour was understood to denote the labour which was productive of wealth; and by unproductive labour was meant the labour not productive of it.

Several writers of reputation, since Adam Smith, especially on the *continent* of Europe, have erected the science on a yet broader foundation, by comprehending, under the denomination of wealth, every thing having exchangeable value, whether material or *immaterial*. To produce utility in any form, they consider identical with the production of wealth. In England, however, the sense in which wealth has been almost universally understood, is in reference only to material objects. To these, Mr. M'Culloch, in the *Encyclopædia*, as we have before remarked, confined his definition. But while he used the term in this, the more limited of the only two significations about which there is now any controversy among political economists, and thus distinctly designated the happiness derivable to man, from the use of material objects, as the peculiar province of Political Economy, he ventured to discard entirely the distinction between produc-

* Wealth of Nations, Book II. Chap. 3.

tive and unproductive labour. He is, indeed, the first *English* writer, of authority sufficient to make an impression on the science, who has done so. And he has certainly argued the matter with much ingenuity and force, if not always consistently with his own definitions. We copy what he says respecting the case of the menial servant, in reply to the statement of Adam Smith.

"Of what is the labour of the manufacturer really productive? Does it not consist exclusively of comforts and conveniences required for the use and accommodation of society? The manufacturer is not a producer of matter, but of *utility* only. And is it not obvious, that the labour of the menial servant is also productive of utility? It is universally allowed, that the labour of the husbandman, who raises corn, beef, and other articles of provision, is productive; but if so, why is the labour of the menial servant, who performs the *necessary* and *indispensable* task of preparing and dressing these articles, and fitting them to be used, to be set down as unproductive? It is clear, to demonstration, that there is no difference whatever between the two species of industry—that they are either both productive, or both unproductive. To produce a fire, it is just as necessary that coals should be carried from the cellar to the grate, as that they should be carried from the bottom of the mine to the surface of the earth: and if it is said, that the miner is a productive labourer, must we not also say the same of the servant, who is employed to make and mend the fire? The whole of Dr. Smith's reasoning proceeds on a false hypothesis. He has made a distinction where there is none, and where it is not in the nature of things there can be any. The end of all human exertion is the same—that is, to increase the sum of necessities, comforts, and enjoyments; and it must be left to the judgment of every one, to determine what proportion of these comforts he will have in the shape of menial services, and what in the shape of material products. It is true, as has been sometimes stated, that the results of the labour of the menial servant, are seldom capable of being estimated in the same way as the results of the agriculturist, manufacturer, or merchant; but they are not, on that account, the less real or valuable. Could the same quantity of work be performed by those who are called productive labourers, were it not for the assistance they derive from those who are falsely called unproductive? A merchant or banker, who is making £5000 or £10000 a year by his business, may perhaps be expending £1000 on his servants; now it is plain, that if he tries to save this sum, he can do so only by turning his servants adrift, and becoming coachman, footman, and washerwoman for himself; and, if he does this, he will, instead of making £5000 or £10000 a year, be most probably unable to make even £50. No doubt a man will be ruined, if he keeps more servants than he has occasion for, or than he can afford to pay; but his ruin would be equally certain, were he to purchase an excess of food or clothes, or to employ more workmen in any branch of manufacture, than are required to carry it on, or than his capital could employ. To keep two ploughmen, when one only might suffice, is just as improvident and wasteful expenditure, as it is to keep two footmen to do the business of one. It is in the extravagant quantity of the commodities we consume, or of the labour we employ, and not in the particular species of commodities or labour, that we must seek for the causes of impoverishment."

In the beginning of this passage, the propriety of the distinction between productive and unproductive labour, is denied on the ground of all labour being productive of utility; and the production of utility is tacitly assumed as the criterion of the production of wealth. The whole of Dr. Smith's reasoning is accordingly pronounced to be founded on a false hypothesis, and he is said to have made a distinction, where, in the nature of things,

there can be none. But surely this amounts to nothing more than a denial of the correctness of that definition of wealth which restricts it to matter—the definition, as we have already stated, adopted by Mr. M'Culloch himself, in his first publication. It is certainly singular that he should not at once have perceived the inconsistency of his views respecting the nature of productive labour, with his own definition; for if to produce utility be to produce wealth, how can we do otherwise than adopt the more extended signification of the latter term? The inconsistency of which we speak, was urged by a writer in the *Quarterly Review*,* in favour of the distinction in question; but Mr. M'Culloch, on the contrary, has considered it, on reflection, conclusive against his definition of wealth; and he has, in the work before us, comprehended under that denomination, every thing having exchangeable value, without any particular reference to matter.

But, notwithstanding our criticism on the passage just quoted, and restricting the application of the term wealth to matter, we think that Mr. M'Culloch has fully established in it the *direct* productiveness of many classes of menial servants, by showing that the direct effect of their industry is to add utility to material products. In other instances, he makes it appear, that they are *indirectly* productive of wealth. And, indeed, they are seldom, if ever, wholly unproductive. If they are not otherwise productive, they are so, though often in a very slight degree, by stimulating others to produce, in order to enjoy their services.

An argument, similar to that in the concluding part of the passage, is maintained by our author, in relation to the officers of justice and government, and the army and navy. It is only extravagance in increasing their numbers beyond the public exigencies, or their salaries and wages beyond an amount calculated to secure the proper performance of their different functions, that can be accounted unproductive; and not the nature itself of those functions. Nor can they be said to be unproductive, because the effect of their industry is not extended beyond the period of its actual exertion. Since their services are essential to the order and security of society, without which it would soon degenerate into a state of anarchy and barbarism, and production itself rapidly diminish, it is clear, that they are at least indirectly productive, and that in a very striking degree. When they are denominated unproductive labourers, it can only be then because they are not *directly* productive of wealth. The distinction, however, even when thus understood, between this class of labourers and some of the productive classes, is not always without its difficulties. M. Garnier, in his edition of the "*Wealth of Nations*," has observed, that it is inconsistent to denominate the clerk of a

* No. 60.

merchant a productive labourer, and a clerk employed by the government an unproductive labourer, when the nature of their occupations may be nearly, and even precisely the same. Mr. Malthus, who is one of the most strenuous advocates of the distinction, replies to this objection, by adducing the great probability of more persons being employed by the government than are necessary for its purposes ; whereas, on the other hand, it may be safely presumed, that this will seldom, if ever, be the case with the merchant. But this reply has already been shown to be unfounded. A whole class cannot be denominated unproductive, because the amount produced by them is not as great as it might be in proportion to their numbers. The true reason for regarding the clerk of the merchant as directly productive, and the other as only indirectly so, is, that the labour of the merchant being directly productive, that of his assistant in producing must have the same character. On the contrary, the services of government being indirectly productive, that of its servants must be so too. But again, if for this reason we regard the merchant's clerk as productive, it may be asked, why are not his menial servants to be considered in the same light, who, by relieving him from the performance of menial offices essential to his subsistence and comfort, enable him to give an undivided attention to his affairs ? Why should they not, equally with the clerk, be regarded as assistants to their employer in the business of production ? They undoubtedly are so ; and the only reason that can be assigned for calling them unproductive, while the clerk is considered a productive labourer, is the more *immediate* relation which the occupation of the latter has to the production of wealth by the merchant.

Another illustration of the difficulty of drawing a precise line of distinction between the different classes of labourers, is, that of the fence-maker, adduced by our author. The sole use of his industry is to furnish protection to the products of other labourers, from invasion and injury. It operates, therefore, on the increase of wealth, precisely in the same way as the services of the public functionaries, or of the army and navy ; and the circumstance of the protection afforded, in the one case being from the aggressions of men, and in the other from injury to be apprehended from the intrusion of cattle, can make no difference in the nature of the employments. The one cannot, it is inferred, be denominated productive, while the other is classed as unproductive. But, as we now understand the terms, the only reason why the fence-maker, or any other labourer, is styled productive, is the *immediate* fixation of his labour, in a material commodity, having exchangeable value. This is considered a point of so much importance as to require the distinction to be drawn between the different kinds of labour, notwithstanding the close analogy of the ef-

fects ultimately produced by them. On the whole, we think there is ground for designating the class of labourers we now speak of, as unproductive, provided we understand by the term unproductive labour, the labour which is *not directly* productive of wealth.

We think this distinction will also hold with respect to the physician, and the other unproductive labourers of Adam Smith; but not, too, without some strange anomalies. Thus, for example, as is observed by M. Garnier, "it seems very strange and inconsistent to denominate musical instruments riches, and the labour which produces them productive, while the music which they yield, and which is the sole object for which they are made, is not to be considered in the same light; and the performers, who can alone put them to their proper use, are called unproductive." "But the difference," says Mr. Malthus, "between material products, and those which are not matter, sufficiently warrants the distinction in point of precision and consistency."*

We may conclude, then, from the preceding review, that the distinction, used absolutely, as productive of wealth, and *entirely* unproductive of it, must be rejected by the political economist as futile, and having no foundation in the nature of things; and that the only distinction which can be drawn with tolerable precision between the different classes of the community, in relation to their influence on the production of wealth, and which at the same time promises to be of any practical utility, is between those who are *directly* productive of wealth, and those who are *not so*. The former may be designated by the term productive—the latter by the term unproductive. Among the former, we shall be compelled to place at least several classes of menial servants; and the latter will comprehend the remaining classes of labourers, which Adam Smith denominates unproductive.

The influence which the *direct* production of wealth has on human happiness, must be very peculiar and important, when it is so carefully distinguished from even the indirect production of it. It is very obvious, that some of the unproductive labourers, contribute in an eminent degree to the production of wealth, though this be done only *indirectly*. Who would for an instant hesitate to acknowledge the vast accession made to the comforts and gratifications of society, in the shape of material products, that is to its wealth, by the industry of such unproductive labourers as Whitney or Fulton? An able statesman, or skilful general, may add more to the wealth of his country, by the results of his exertions, than thousands of productive labourers. And there can be no comparison between the influence on the progress of national wealth of a common field-labourer, and the

* Principles of Political Economy, page 46.

physician who is "instrumental in saving the life of an Arkwright or a Watt." It is not then, in relation to that influence, that the apparently invidious distinction has been made between the different kinds of labour; and that some of the most important have been confounded with some of the most frivolous occupations, under the common appellation of unproductive. The whole object of the distinction, as has been before stated, and a very important one it is, is to discriminate between all other labour, and that which is employed by capital, on the comparative amount of which the progress of wealth is so dependent. If this object were attained, and to be directly productive of wealth, were synonymous with being employed by capital, a want of precision in the distinction would hardly have been considered as of much account. A few anomalous cases do not vitiate and render wholly useless our classifications. No one, for instance, because we are unable with strict logical precision to draw a broad line of demarkation between the animal and vegetable kingdoms, would on that account be disposed to reject the distinction between them altogether, and to insist on denominating every tree or shrub that met his eye, an animal. Such distinctions are often of great practical utility; and, if we refuse to acknowledge them, we may at once resign all consideration of moral and political subjects, and dignify the mathematics alone with the name of science. But, if any of the direct producers of wealth be not employed by capital, the distinction of labour into productive and unproductive, will not be available for the purpose intended; for this will not be a case of mere want of precision in the distinction, but its conditions will have been completely fulfilled. If menial servants, then, be productive labourers, as we have been led to infer, we are reduced to the necessity of either regarding the products consumed by them as a portion of capital, or of rejecting the distinction itself, as failing in its avowed object. Its most zealous advocates would prefer rejecting it without hesitation, rather than make such an unusual, and, as they would deem, absurd application of the term capital. Since the productiveness of menial servants leads necessarily to these results, it is not surprising that the advocates of the distinction should be earnest in denying it. But, as it is obvious, that it cannot be maintained that they are wholly unproductive, when the sole criterion of productiveness is the direct production of wealth; to this, other conditions are superadded. We shall let the writer, before alluded to in the *Quarterly Review*, speak on the subject:—

"It is true, that the labours of some menial servants sometimes increase the value of material products; but the amount of this value, as it affects the wealth of the society, never comes to be estimated, like the labours of the agriculturist, the manufacturer, the carrier, and the shopman; and even if it could be es-

estimated, it would be found so trifling, compared with the *material products consumed by them*, that, as a class, their labour may most fairly be denominated unproductive. In fact, menial service, when most like productive labour, may be characterized as assisting in the convenient and agreeable *consumption* of wealth, and not essentially in its production. But what puts the matter beyond doubt, and makes a very marked and striking distinction between them, is, that menial service is always employed by revenue with a view to consumption and enjoyment, and never by capital with a view to production and profit; and, as this is the only intelligible and useful distinction between unproductive and productive consumption, it is clear that menial servants, even when they most resemble productive labourers, must come under the head of unproductive consumers."

The first argument adduced in this extract, for considering the industry of menial servants as unproductive, is founded on the circumstance of the value which it confers on material products, never coming to be estimated, like the industry of the agriculturist or manufacturer. Now, although precision in our classifications is at all times desirable, yet this alone will not render it proper to comprehend in them, or to exclude from them, what we are not required to do by the nature of things. It cannot be maintained, that the wealth produced by any class of men, however great may be its amount, should, merely because of a want of exactness in estimating or measuring it, be rejected as of no account in the scale of national wealth. Would we refuse to apply the term *wealthy*, to an individual to whose comforts and conveniences exclusively, hundreds or thousands were ministering by their labour, bestowed on material products, only because this did not come to be estimated, inasmuch as it was not the kind of service which alone was rendered, but that it was joined with others of an unproductive character? Certainly not. Why then should we act differently in relation to national wealth, when a nation is nothing more than the individuals which compose it?

It is probable, however, that the writer, in deeming the circumstance of not being estimated a matter of importance in the classification of the labour of menial servants, had chiefly a reference to its products not being brought into the market, and made a subject of exchange. This, we think, is ascribing by far too much importance to the mere act of exchanging one commodity for another. In the actual very improved state of the division of labour, the distribution of its products to their consumers, often requires a multitude of exchanges. The quantity produced by each individual for his own consumption, is, in most cases, very insignificant when compared with what is intended for the use of others. In such a state of society, and in relation to what is produced with this intent, the act of exchange may be regarded as an essential link in the chain of production, and necessary to the constitution of wealth. But, on the other hand, when the products of industry are destined, in the very act of production, for the comfort or gratification of the individual at whose expense they are produced, he would be a loser by exchanging them. He

has required them to be furnished, only because he prefers them to other comforts or gratifications of equal exchangeable value. This is the case with the material products of menial service. It would certainly be wrong to infer, that, because these are not made by their owner the subject of an exchange, they are, therefore, no part of his wealth. But is it true, that these products are not made the subjects of at least *one* exchange? Surely the whole, or a part of the wages of a menial servant, is the equivalent paid for them, and may be considered as their value in exchange; and the circumstance of their being consumed without farther exchange, cannot affect this value.

Some authors have avoided making any reference, in the definitions they have given of wealth, to an exchange of commodities. Thus, Mr. Malthus, in his "Principles of Political Economy," defines wealth to be "those material objects which are necessary, useful, or agreeable to man;" and Mr. Torrens, in his book on the "Production of Wealth," makes it to consist of "those material articles, which are useful or desirable to man, and which it requires some portion of voluntary exertion to procure or to preserve." When wealth is defined to consist of articles having *exchangeable value*, these writers conceive that a condition is made essential to the constituting of wealth, which is entirely foreign from the nature and inherent qualities of its objects. According to this definition, it is asserted that an article might at one time be wealth, and at another time not be so, according as it happened or not to be the subject of an exchange. If every individual of the community were to consume whatever he produced, and thus to dispense with all exchanges, it is supposed to be a necessary consequence of the definition, that all wealth would cease to exist; although at the very time, the enjoyment conferred by the use of material products might be exceedingly great. It might also be inferred, by a similar mode of reasoning, that if an individual be placed in an island, cut off from all intercourse with his fellow men, however numerous the benefits conferred on him by the material world, though he had an unlimited command of whatever is fitted to gratify the senses, or delight the imagination, he must be considered as destitute of every thing entitled to the denomination of wealth, simply because he is unable to exchange his possessions for other objects, whose only value is founded on their having a like capacity of ministering to his desires.

These objections are all founded on hypothetical assumptions as to the condition of mankind, with which we are in nowise concerned. In the present state of society, they do not appear to us to have much force. Everywhere on the face of the earth, even where the first rudiments only of civilization are to be found, men are mutually dependent on each other, and the prac-

tice of exchanging the products of their industry prevails. From these very objections, however, it must appear that the actual exchange of one commodity for another, or even the capacity of exchanging them, is not an essential part of the definition of wealth. The creation of utility is the main consideration. One set of political economists require nothing more to constitute their notion of it. Another connect utility with matter. The introduction of the idea of exchangeable value into the definition, is merely because, in the existing organization of society, it is an evidence of wealth having been produced. So far, indeed, is our idea of wealth from depending on the possession, by any object, of exchangeable value, that this is not even a measure of wealth, excepting at the same place and time. Wealth and value may be very different. The one may increase, while the other decreases.

We pass on to the next objection of the reviewer to the productiveness of menial servants. He remarks, that even if the value which they add to material products "could be estimated, it would be found so trifling compared with the material products consumed by them, that, as a class, their labour may most fairly be denominated unproductive." As long as wealth is restricted to matter, we think this to be the only ground on which it can be maintained with any propriety, that menial servants, *as a class*, are directly unproductive of wealth. In many cases, the amount produced by them may be so inconsiderable, that no practical error would result from neglecting it. In others, as for instance, those of the gardener and cook employed in a gentleman's family, it would be altogether incorrect to rank them as unproductive. In fact, if *all* menial servants are to be regarded as unproductive, the distinction fails, as we have before remarked, not merely through a defect of precision, but even when its conditions are entirely complied with.

The reviewer goes on to observe, that what puts the unproductiveness of menial servants beyond doubt is, that—

"Menial service is always employed by revenue, with a view to consumption and enjoyment, and never by capital with a view to production and profit: and as this is the only intelligible and useful distinction between unproductive and productive consumption, it is clear, that menial servants, even when they most resemble productive labourers, must come under the head of unproductive consumers."

This argument of the reviewer derives plausibility from the confounding of two very different applications of the terms productive and unproductive consumption, which we think it important should be carefully distinguished from each other, in order to a clear understanding of the nature and laws of the production of wealth. Few of the advocates for the distinction under consideration will deny, that if any individual consume what

he receives as the wages of productive labour, his consumption must be denominated productive. A part of a labourer's wages may, however, not be consumed by himself, but be appropriated to the consumption of other productive labourers, or, in other words, be employed by him as capital. He may forego, as well as his more wealthy employer, present gratification for a greater command at a future day over the comforts and conveniences of life. What is thus appropriated must of course be deemed productively consumed. Does it then follow, that if not so appropriated it will be unproductively consumed? So it would seem. But, on the other hand, it has already been allowed to constitute a part of the productive consumption of the community. How are we then to escape from the inconsistency to which we have been led? This will at once disappear, if we remark, that, in reference to the progress of *national* wealth, the consumption of his wages by a productive labourer, as revenue, must be considered productive. But that relatively to the productiveness of the consumption of such part of his wages as he may employ as capital, his revenue is sometimes said to be unproductively consumed. In this latter case, productive and unproductive consumption is to be viewed, consistently with the former application of the terms, as wealth *more or less productively* consumed.

The ambiguity of which we speak, might seem at first view to imply also the inconsistency of a double consumption of the same object; and indeed, as the same object may be supposed to be transferred an indefinite number of times from labourer to labourer, before it be finally consumed, it is clear that it may thus appear to constitute alternately the productive and unproductive consumption of an indefinite number of persons. M. Say avoids the use of an ambiguous term, by taking entirely a different view of the nature of productive consumption. He maintains* the singular doctrine, that the consumption of *all* labourers, whatever the nature of their occupations may be, is alike unproductive, and that the only productive consumption, which takes place in the community, is that of the *labour* of the productive labourers by their employers the capitalists. Thus, for example, when a merchant pays a clerk a certain amount of wages in exchange for his labour, this labour, according to M. Say, and not the wages consumed by the clerk, is productively consumed, and it is so consumed, not by the clerk, but by the merchant. The asserting, even in appearance, of a double consumption of the same object, is thus supposed to be avoided; but if carefully examined, this doctrine will be found to lead precisely to such a consumption. Why has *labour* any value whatever? Certainly only on account of the value of its products. When what is pro-

* Treatise of Political Economy. Book III. chap. 3.

duced by the labour of any individual is purchased by the payment of his wages, who would be idiot enough to give him any thing besides for his labour? And how can this be consumed otherwise than by consuming its products? Any other consumption of labour is to us quite unintelligible. It will follow, then, that to maintain that when a productive labourer consumes his wages unproductively, his labour is consumed by his employer productively, is to maintain that his employer consumes the *products* of his labour productively; which is contradictory to the position first assumed, that all products are necessarily the subjects of an unproductive consumption. We thus arrive at the absurdity of a twofold consumption of the same products, which M. Say supposed himself to have evaded.

As we have explained the term productive consumption, the circumstance of a portion of wealth being consumed by any individual as revenue, is no evidence of its not being a part of the capital of the country. It certainly cannot be a part of his own capital; but it may belong to the capital of another. So the menial services rendered to a farmer or mechanic, or more properly speaking, the material products of these services consumed by them, are of course consumed as revenue; yet they are consumed productively, in a national point of view, since the farmer and the mechanic are both productive labourers, and the products we speak of are a portion of their *real wages*. In short, whether or not what is consumed as revenue be a part of capital, must depend entirely on the productive or unproductive character of the labourer. If it be said that no capitalist, in the enumeration of the objects constituting his capital, would ever think of comprehending among them the products of menial service, consumed by any of the persons employed by him; neither would he ever think of doing so, with any of the luxuries consumed only by the higher classes of productive labourers, which, it will not be denied, constitute a part of *their* real wages, and of *his* capital. Menial services rank, in this respect, with the carriages and horses kept for pleasure, or the watches worn by these classes of the community.

The passage from the reviewer, which has given occasion to the foregoing remarks, when properly understood, implies, that menial servants, when they do add a value to material products, are still to be considered as unproductive labourers, if what they produce be unproductively consumed, which is supposed to be always the case. This is superadding to the direct productiveness of wealth, a condition as necessary to constitute a labourer *productive*, which affects essentially the nature of the application of the distinction to the different kinds of labour. Many labourers now become unproductive, who, without this condition, would be denominated productive; and the distinction will, in fact, no

longer relate to wealth, but to capital. It will fail of the object proposed by its advocates, *first*, in not comprising the labour of *all* menial servants under the denomination of unproductive; such labour as adds a value to matter, which value is consumed by the producers of wealth, being still to be regarded as productive labour; and, *secondly*, by marking as unproductive, much of the labour designated universally by the advocates of the distinction as productive; viz., such as is employed in the production of all material objects, which are destined to constitute any portion of the consumption of the non-producers of wealth. If menial services be frequently, or even generally unproductive, so will most of the labour employed in producing gunpowder, lace, Brussels carpets, &c.

A choice is then presented to us, between two modes of applying the distinction. It may either be understood in reference to the production of *wealth*, menial servants being considered, *as a class*, to be unproductive, only because the material products consumed by them, very much exceed in amount the value added by them to matter; or we may apply it to distinguish between the producers of *capital*, and such labourers, as minister to the consumption of those who are not engaged in producing wealth. On the proportion which these two classes bear to each other, the increase of wealth in any nation essentially depends. However productive of wealth any labourer may be, if no part of what is produced by him be employed as capital, but be consumed by those who do not reproduce wealth, it is obvious that he makes no permanent addition to the wealth of the country. He is equally inefficient in this respect, as if he had been entirely unproductive of wealth. We think there can be little difficulty in deciding which is the most useful application of the distinction. We do not hesitate to prefer applying it to capital, rather than to wealth, contrary to the universal usage of its advocates. A productive labourer will then denote a labourer productive of capital, and an unproductive labourer, one who is not productive of it.

Consistency will now require us to give a corresponding extension to the meaning of the terms productive and unproductive *consumption*. To be consumed productively, will no longer denote being consumed by the producers of wealth, but by the producers of capital, whom we have denominated productive labourers. So with respect to unproductive consumption. What then shall we say is capital? It cannot comprehend that portion of wealth which is "employed in maintaining *productive industry*," for the definition of this latter term will involve that of capital. By, however, defining it to be that portion of the produce of labour which is consumed or employed in *the production of wealth*, our definition will be consistent with those

of productive industry and consumption. And in order to avoid all ambiguity, when the term productive is applied to wealth generally, in contradistinction to capital, it would be proper always to specify the application, by saying productive *of wealth*, in the same manner as those political economists, who make use of the word value, as synonymous with utility, say value *in use*, to distinguish it from exchangeable value. The habit of using the terms productive and unproductive in reference to wealth, and not to capital, may make the application of them to the latter seem somewhat singular, and not entirely in accordance with the sense in which capital must continue to be understood. But this seeming want of perfect symmetry in our definitions, we think to be more than compensated, by the distinct bearing which productive labour will have on the *increase* of national wealth. Some will, perhaps, more readily admit the application of the terms to capital instead of wealth, by the consideration that there are very few of the producers of wealth, who are not in some degree likewise productive of capital. The producers of wealth, *as a class*, are certainly *productive labourers*. The exceptions are very few in an advanced stage of civilization, and almost exclusively confined to the very few cases in which a government produces with a view to the consumption of its own servants, as, for example, when it constructs barracks or ships for its army or navy.

The *degree* in which a labourer is productive, will become of as much importance, as whether he be at all productive or not. This will depend on two circumstances; *first*, the comparative amount of the wages of that part of his labour, which is applied to the production *of wealth*; and, secondly, on the proportion which what is produced, and is consumed by the producers of wealth, bears to the remaining portion consumed by those who are not productive of it. If the latter circumstance be the same in any two cases, it is clear that the value of what is added to capital, and of course the productiveness of the labourer, will be in proportion to the amount of his wages. The superior productiveness, accordingly, of a master manufacturer, to any of the common workmen who co-operate with him, is measured by the superiority of his wages. This circumstance can always be estimated with much exactness; but it is frequently very difficult to trace the portion of wealth produced, which is appropriated to capital. But, nevertheless, it may often be important to determine the degree of the productiveness of labour, as far as the nature of things will permit. As we speak of labour being more or less productive, so we would denominate capital more or less so, according to the degree in which the labourers employed by it, or who consume it, were productive.

Having now deduced what appears to us the only very useful

classification of labour as productive and unproductive, together with a consistent definition of capital, on the supposition that wealth is composed of material objects possessed of exchangeable value, we will try the experiment of adopting its more extended acceptation, which embraces every thing having such value, whether material or immaterial. And, first, retaining the definition already given of capital, viz. that it consists of that portion of the produce of labour which is consumed or employed by the producers of *wealth*, it is obvious that it will experience an extension of its signification corresponding with that of wealth. It will comprehend not only the food, clothing, and habitation of the labourer, but likewise the gratifications of taste and of intellect, which he obtains in exchange for a portion of his wages. The advice of the physician, and the declamation of the actor, will or will not be a part of capital, according as they are made use of or enjoyed by the receivers of wages, no matter what the nature of their occupations may be, or by those who live on rent or profits. To receive wages will become the very simple test of being employed by capital.

Secondly, productive labour, denoting as before the labour which is productive of capital, must have its signification also extended in accordance with those of wealth and capital. The distinction between direct and indirect production will at once disappear entirely, and with it all the puzzling difficulties which render the distinction, as commonly applied, so frequently wanting in precision. Every labourer will be productive of wealth; and every producer of wealth will be *directly* productive of it. Now, more than ever, every one who produces wealth will also in different degrees be productive of capital, or, in other words, be a productive labourer. The magistrate, the clergyman, the physician, the menial servant, the actor, and in short all the unproductive labourers of Adam Smith, equally with the producers of material commodities, will become productive; and in a degree proportional to the amount of their wages, and according as their services are rendered to the receivers of wages, or to those who live on rent or profits. Our language on the production of wealth, will no longer have the frequent appearance of a paradox. The man of science and the successful statesman, will no longer be degraded below the rank of the meanest individual who handles a pickaxe or a shovel, by being denominated an unproductive labourer; and an Arkwright and a Whitney will stand out clearly acknowledged as the benefactors of mankind. It is no doubt true, that in applying the epithet unproductive to such labourers as these, Adam Smith and his followers had no intention of stigmatizing their services as less important to the community, even in relation to the production of wealth, than those of the productive labourers. But words are sometimes more important

than things. And there can be no doubt, that the distinction under consideration, as commonly applied, has operated effectually to the disadvantage of Political Economy, both by giving an undue importance to the influence on human happiness of the industry denominated productive, in the estimation of political economists themselves, and also in exciting against it the prejudices of many even of the most enlightened of the community, as a subject of study calculated to withdraw the mind from topics of higher dignity, and greater concernment to man.

We shall now examine the objections which have been made to this view of the nature of wealth. Nothing can be more decided than the opinion which Mr. M'Culloch pronounces respecting it in his first publication. He remarks, that—

"If Political Economy were to embrace a discussion of the production and distribution of all that is useful and agreeable, it would include within itself every other science; and the best Encyclopædia would really be the best treatise on Political Economy. Good health is useful and delightful, and therefore, on this hypothesis, the science of wealth ought to comprehend the science of medicine; civil and religious liberty are highly useful, and therefore, the science of wealth must comprehend the science of politics; good acting is agreeable, and therefore, to be complete, the science of wealth must embrace a discussion of the principles of the histrionic art, and so on. Such definitions are obviously worse than useless. They can have no effect, but to generate confused and perplexed notions respecting the objects and limits of the science, and to prevent the student ever acquiring a clear and distinct idea of the nature of the inquiries in which he is engaged."

This passage is quoted by the London Quarterly reviewer with high approbation, and considered by him as entirely inconsistent with the rejection of all distinction between productive and unproductive labour, as these terms are made use of by Adam Smith. Mr. M'Culloch himself has become convinced of this inconsistency; but strongly impressed, it would seem, with the uselessness of the distinction, and even with its non-existence in the nature of things, he has omitted the passage in his last work, and, as before mentioned, has adopted in it the definition of wealth, the propriety of which we are now maintaining. He does not, however, explain his reasons for thus unceremoniously rejecting, and regarding as of no account, an argument which at one time produced such a decided impression on his mind. To us it appears to have no weight whatever, and to involve one of the most remarkable fallacies which have ever obstructed the progress of knowledge. We think it would be equally logical to infer, that because Political Economy embraces a discussion of the production and distribution of all *material products* that are useful and agreeable, it must include within itself all the sciences and arts which relate to matter, and that Chemistry, Architecture, and Painting, for example, are only branches of it, as to infer that, if it be understood to comprehend every thing having exchangeable value, whether ma-

terial or not, "it must include within itself every other science, and that the best Encyclopædia would really be the best treatise on Political Economy." Surely a relation to a common object is not sufficient to identify two sciences. It is the consideration of objects *in different points of view* which has given rise to the multiplication of the departments of human knowledge. Now, to our apprehension, *intellectual products* admit of being regarded in a point of view precisely analogous to that which constitutes material objects the subjects of Political Economy. They both possess utility, and they both have exchangeable value.

It has been very generally maintained, that intellectual, or, as they are more commonly denominated, immaterial products, have no durability, and are on that account unsusceptible of accumulation. If this conclusion were just, it is obvious that they could not constitute any portion of capital; and we would readily grant that it would be, if not absolutely inconsistent, yet certainly quite inexpedient, to class them with material products, under the denomination of wealth. But is it true that they have not in fact been accumulated? Are not the enjoyments received from this source, both in Europe and in our own country, vastly greater at the present day than they were two hundred years ago? With the increase of our population has our consumption been increased, only in regard to material commodities? And have not the unproductive labourers of Adam Smith been multiplied in number, in a degree corresponding with that of the productive labourers? To these questions the answer would probably be, that it is not the immaterial products themselves which have been accumulated,—they exist only in the instant of enjoyment,—but that it is the *capacity* of producing them which is to be found now to a greater extent than heretofore, and which it is not denied may be increased or accumulated without limit. This is, however, admitting all that the advocate for the accumulation of immaterial products would desire. Even in this respect, the analogy is complete between them and material products. If we regard material *objects* as wealth, it is for no other reason than because of *their capacity* to furnish enjoyment of some kind or other, at the present or a future time. It is this capacity that endures, and not the enjoyments conferred, which are necessarily consumed, like immaterial products, in the very instant of their production.

Another objection to our definition of wealth, is, that it must necessarily lead to a rejection of all distinction between productive and unproductive labour. And such would be the case, if this could only relate to wealth. But we have endeavoured, in what goes before, to show, that when applied to capital it will fully answer the purposes for which it was originally intended.

On the whole, we do not consider the objections to be very formidable, which have hitherto been made to the definition of wealth under consideration; and we are convinced that its adoption, together with those of capital and productive industry, which we have proposed, would have a tendency to accelerate the progress of Political Economy, and would contribute to the dignity of the science, by extending its sphere from matter to mind.

Before we conclude, we shall say a word or two concerning our author's definitions of capital. It has been mentioned, that capital was at first stated by him to denote "that portion of the produce of labour which is saved from immediate consumption, and employed in maintaining productive industry, or in facilitating production." We also hinted, that the phraseology of this definition was in our opinion open to objection, although its meaning corresponded with the sense in which capital was usually understood. Not to mention the inconsistency of the author in making use of the term productive industry, while he is an advocate for rejecting all distinction between productive and unproductive labour, we think that the consideration by him of the capital of a nation, as consisting of what is saved from *immediate* consumption, in which view of it he is, however, far from being singular, to be quite unfortunate, whatever propriety there might be in considering it as such in respect to the present or future enjoyment of the individuals who may possess it. What a person appropriates to capital, is frequently consumed with much more rapidity than what is consumed by him as revenue. The food and clothing of a labourer, can bear no comparison, in point of duration, with the house and furniture of his unproductive employer. Indeed, the circumstance of being appropriated to capital, has no relation to a more or less immediate consumption. It depends entirely on the fact of its being consumed or not by the producers of wealth.

The prejudice of Mr. M'Culloch for enduring commodities, in reference to their capability of constituting capital, with the notion that immaterial products were alone consumed as soon as produced, are probably the reasons which have prevented him from giving a proper extension to the signification of capital, when he had adopted the *more liberal* one of wealth. In the work before us, he has employed the term with as much latitude as a limitation of it to material objects would allow. "The capital of a country," he says, "may be defined to be that portion of the produce of industry existing in it, which *can be made* directly available, either to the support of human existence, or to the facilitating of production." By this definition, it was intended to comprehend, under the denomination of capital, the whole *stock* of a country, as that term is used by Adam Smith, viz. all the material commodities existing in it, without regard

to the character of the consumers, whether they live on rent, profits, or wages. "For any thing," observes our author, "that we can *a priori* know to the contrary, a horse yoked to a gentleman's coach may be just as productively employed, as if he were yoked to a brewer's dray; though it is quite plain, that whatever difference may really obtain in the two cases, the *identity* of the horse is not affected—he is equally possessed, in the one case as in the other, of the capacity to assist in production; and so long as he possesses that capacity, he ought to be viewed, independently of all other considerations, as a portion of the capital of the country." To us, on the contrary, it appears that the point of importance, in relation to the progress of wealth, which it is the object of the political economist to mark by the term capital, is not the possible, but the *actual*, appropriation of any commodity to the consumption of those who are engaged in the production of wealth. We have no concern with an imaginary state of a country, but only with its really existing condition. And even if wealth be restricted to matter, we consider the definition of Mr. M'Culloch to be wholly inadmissible.

It was our intention, before closing the present article, to compare our views on the definitions of wealth and capital, and the distinction between the different kinds of labour, with those of some of the writers to which they most nearly approach, more especially with those of Mr. Storch of St. Petersburg. His Course of Political Economy, prepared by him for the use of the present Emperor of Russia, and his brother the Grand Duke Michael, has divided with the treatise of M. Say the reputation of being the best work on the subject to which it relates, yet published on the continent of Europe. In 1825, he added to it a supplemental volume, which contains much able and instructive discussion on fundamental and disputed points. Having, however, already exhausted the space allotted to us, and very probably the patience of our readers, we can now only refer to it as perhaps the most important contribution which has been made to Political Economy, since the publication of the great work of Mr. Ricardo.

ART. IV.—*Reports of Cases argued and determined in the Consistory Court of London; containing the Judgments of the Right Hon. Sir William Scott.* By JOHN HAGGARD, LL. D. Advocate. 2 vols. Svo. London.

THE division of labour, in England, is not confined to mechanical and manual operations. It is extended—and with as much reason and benefit, perhaps—to the scientific, literary, political, and legal institutions of that country. Its courts of law are not only very numerous, but their jurisdiction is, in most instances, restrained to a definite and very limited class of subjects. Far otherwise is it in our country. The same judges, in many of the state courts, are required to examine and decide on questions of chancery law, common law—strictly so called—and those parts of the law ecclesiastical, which form a most interesting and important branch of our local jurisprudence. In addition to all this, they have to expound a vast body of statutes, ancient and modern, enacted at different times, and under various exigencies, ever since the settlement of the country. Even the United States' courts, whose authority is, in many respects, more circumscribed than that of any other, have not only chancery, admiralty, and common law jurisdiction, but are likewise empowered and obliged to decide upon the statutes passed by congress, by twenty-four state legislatures, and by the legislatures of divers territories of the United States. Judges, in this country, are sometimes called the people's servants. Truly they are servants of all work.

There are numerous ecclesiastical courts in England; but it is not our design, (although the subject is an interesting and instructive one,) to trace their history or their jurisdiction, nor to point out the boundaries of those different tribunals. Indeed, we are not certain that we have a perfectly accurate knowledge of their boundaries. It is sufficient for our purpose to state, that every diocesan bishop has cognizance of the legality of marriages, and causes of divorce, and power to enforce specifically the rights and obligations resulting from the marriage contract. He has also, in addition to some other less important matters, jurisdiction of the probate of wills disposing of personal property, and of causes relating to administrations. Questions arising on these subjects of his jurisdiction, are litigated in the proper ecclesiastical forum. The bishop does not, in these days, attend personally in court; but his chancellor, commissary, official principal, (or whatever other title may be given,) sits in judgment, under a subrogated authority. Many eminent lawyers have, at different times, been invested with these important trusts. We mention only Sir Edward Simpson, Sir George Hay, Sir William Wynne, Sir John Nicholl, and Sir William Scott, in proof of this assertion.

The volumes before us contain the judgments of the last named of these great men, in the Consistory Court of London, from May 1789, to August 1821. On the 14th of July 1821, he was made a Peer of the United Kingdom, by the title of Baron Stowell, and on the 14th of August resigned the chair of that court, and was succeeded by Sir Christopher Robinson, to whom the world is indebted for the Reports of his predecessor's admirable judgments in the High Court of Admiralty.

Until very recently, there have been no regular reports of the adjudications of the English ecclesiastical courts. Hence our common law courts, though possessing a great part of their jurisdiction, have not been able to acquire much knowledge of their practice, or to derive much assistance from their learning and wisdom. Of course, doubts have been raised, in probate cases, which no common law or chancery reports could solve; and the courts have groped their way in darkness and uncertainty, which Dr. Phillimore's Reports of the Prerogative Courts, would instantly have dispelled and removed. Indeed, we have good authority for stating, that, in one of the New-England states, within four years, the courts were not a little perplexed as to their proper course, in one case, where a will was lost or purloined from the probate office, before it was approved and allowed; and, in another, where a will, or codicil, was fraudulently destroyed. Fortunately, the reports above-mentioned had arrived in this country, and it was found, that, in such cases, a will improperly withheld or destroyed, might be admitted to probate, on parol proof of its contents. That there must be some remedy, in such cases, nobody denied. What that remedy was, or how it should be applied, was the puzzling question. So on questions of divorce, there has been in many states, (would that it were even now remedied!) a most slovenly practice, which we attribute to an ignorance of the forms of proceeding in the ecclesiastical courts. We have more than once seen a woman divorced from the bed and board of her husband, on a libel in which the only allegation was, that he treated her with such extreme cruelty, that it was unsafe for her longer to remain subject to his power—without any statement of time, place, or circumstances! If the volumes before us shall do nothing more than to correct this gross departure from the principles which are held inviolable in a common action for an assault, or for the collection of a debt of four shillings, we shall think our humble attempt to give some little additional knowledge of their existence, abundantly compensated.

Most of the cases reported by Dr. Haggard, relate to questions of marriage or divorce. Five of them had been previously published in an authentic form; and two or three of them were known to professional gentlemen in this country. The remainder were never in print rightfully, if at all, until inserted in these

volumes. As many of them are equally interesting to all classes of readers, and regard a relation in life which most extensively and deeply influences the comfort, security, and morals of society, we shall be pardoned, at least, for stating some of the doctrines and decisions which we here find so ably and elegantly presented to us. We commence with an extract from the judgment given in the case of *Dalrymple vs. Dalrymple*, in which the learned judge sketches his views of the institution and law of marriage:—

“Marriage,” says Sir W. Scott, “being a contract, is of course consensual; for it is of the essence of all contracts, to be constituted by the consent of parties. *Consensus non concubitus facit matrimonium*—the maxim of the Roman civil law—is, in truth, the maxim of all law upon the subject; for the concubitus may take place, without a view to anything further; but a marriage must be something more; it must be an agreement of the parties looking to the consortium vitæ.—Marriage, in its origin, is a contract of natural law; it may exist between two individuals of different sexes, although no third person existed in the world—as happened in the case of the common ancestors of mankind. It is the parent, not the child, of civil society—*principium urbis, et quasi seminarium reipublicæ* (Cic. de Off.) In civil society, it becomes a civil contract, regulated and prescribed by law, and endowed with civil consequences. In most civilized countries, acting under a sense of the force of sacred obligations, it has had the sanctions of religion superadded. It then becomes a religious, as well as a natural and civil contract; for it is a great mistake to suppose, that because it is the one, therefore it may not likewise be the other. Heaven itself is made a party to the contract, and the consent of the individuals, pledged to each other, is ratified and consecrated by a vow to God.

“It was natural enough that such a contract should, under the religious system which prevailed in Europe, fall under ecclesiastical notice and cognizance, with respect both to its theological and its legal constitution. In the Christian Church, marriage was elevated, in a later age, to the dignity of a sacrament, in consequence of its divine institution, and of some expressions of high and mysterious import respecting it, contained in the sacred writings.* The law of the church, the canon law, (a system, which, in spite of its absurd pretensions to a higher origin, is, in many of its provisions, deeply enough founded in the wisdom of man,) although, in conformity to the prevailing theological opinion, it revered marriage as a sacrament, still, so far respected its natural and civil origin, as to consider, that where the natural and civil contract was formed, it had the full essence of matrimony, without the intervention of the priest. It had, even in that state, the character of a sacrament; for it is a misapprehension to suppose, that this intervention was required as a matter of necessity, even for that purpose, before the Council of Trent. It appears from the histories of that council, as well as from many other authorities, that this was the state of the earlier law, till that council passed its decree for the reformation of marriage. The consent of two parties, expressed in words of *present mutual acceptance*, constituted an actual and legal marriage, technically known by the name of *sponsalia per verba de presenti*—improperly enough, because *sponsalia*, in the original and classical meaning of the word, are preliminary ceremonies of marriage; and therefore Brower justly observes, *jus pontificium nimis laxè significatu, imò etymologiâ invitâ, ipsas nuptias sponsalia appellavit*. The expression, however, was constantly used in succeeding times, to signify *clandestine* marriages, that is, marriages unattended by the prescribed ecclesiastical solemnities, in opposition, *first*, to regular mar-

* Since transcribing the above, we casually looked into Grebner's *Philosophia Moralis sive Ethica, et Jus Naturæ*, where we found the following passage:—“Ut conjugium Adami et Evæ figura esset conjunctionis naturæ divinæ et humanæ in Christo, à quo ad dignitatem sacramenti Novæ Legis, indissolubilem Christi cum ecclesiâ unionem significantis, elevata fuit: hinc matrimonium Sacramentum dicitur, quo vir et mulier legitimè contrahentes individuum vitæ societatem ineunt, gratiæque Divinæ donantur.” Pars. ii. sect. ii. cap. 1.

riages—secondly, to mere engagements for a *future marriage*, which were termed *sponsalia per verba de futuro*—a distinction of *sponsalia* not at all known to the Roman civil law. Different rules, relative to their respective effects in point of legal consequence, applied to these three cases—of regular marriages—of irregular marriages—and of mere promises, or engagements. In the regular marriage, every thing was presumed to be complete and consummated, both in substance and in ceremony. In the irregular marriage, every thing was presumed to be complete and consummated in substance, but not in ceremony; and the ceremony was enjoined to be undergone, as matter of order. In the promise, or *sponsalia de futuro*, nothing was presumed to be complete or consummate, either in substance or ceremony. Mutual consent would release the parties from their engagement; and one party, without the consent of the other, might contract a legal marriage, regularly or irregularly, with another person; but if the parties, who had exchanged the promise, had conjugal intercourse with each other, the effect of that intercourse was to interpose a presumption of present consent at the time of the intercourse—to convert the engagement into an irregular marriage, and to produce all the consequences attributable to that species of matrimonial connexion.*

“Such was the state of the Canon Law, the known basis of the matrimonial law of Europe. At the Reformation, this country [England,] disclaimed, amongst other opinions of the Romish church, the doctrine of a sacrament in marriage, though still retaining the idea of its being of divine institution in its general origin; and, on that account, as well as of the religious forms that were prescribed for its regular celebration, an *holy estate*, *holy matrimony*, but it likewise retained those rules of the Canon Law, which had their foundation, not in the sacrament, or in any religious view of the subject, but in the natural and civil contract of marriage. The ecclesiastical courts, therefore, which had the cognizance of matrimonial causes, enforced these rules, and amongst others, that rule which held an irregular marriage, constituted *per verba de præsenti*, not followed by any consummation shown, valid to the full extent of voiding a subsequent regular marriage contracted with another person.” Vol. ii. pp. 62. 67.

The law in England, as stated in the paragraph last quoted, was altered by statute, in the reign of Henry VIII. “But this statute” as Sir W. Scott observes, “was afterwards repealed, as having produced *horrible mischiefs*, which are enumerated in very declamatory language, in the preamble of the statute 2 Edw. VI.; and Swinburn, speaking the prevailing opinion of his time, applauds the repeal, as worthily and in good reason enacted.” The judge then cites divers cases, to show that the doctrine above stated was recognised by the temporal courts as the existing matrimonial law of England, down to the passing of the Marriage Act, in the twenty-sixth year of the reign of George II. Among other cases, he cites *Collins vs. Jessot*, in the time of Queen Anne, where it was said by Lord Chief Justice Holt, and agreed to by the whole court of King’s Bench, that if a contract be *per verba de præsenti*, it amounts to an actual marriage, which the very parties themselves cannot dissolve by release or other mutual agreement; for it is as much a marriage in the sight of God, as if it had been *in facie ecclesiæ*. But a contract *per verba de futuro*, which do not intimate an actual marriage, but refer to a future act, is releasable (6 Mod. 155.) So in 1732, in the case of Lord Fitzmaurice, before the Delegates, where there

* See a lucid statement of the same doctrine, in Corvinus’s *Digesta per Aphorismos*: Lib. 23.
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were three engagements in writing—the first, dated June 1724, containing these words, “we swear we will marry one another,”—the second, dated July 1724, and repeated in the following December, to this effect, “I take you for my wife, and swear never to marry any other woman,”—the court, composed of a full commission, paid no regard to the objection that the repetition of the declaration proved that the parties did not depend on their first declaration—but found for the marriage; and the chancellor refused an application for a commission of review. Martin Luther had long before asserted the same doctrine. (See his *Table Talk*, chapter on *Matrimony*.)

Indeed we believe it to be perfectly clear, that by the canon law—which is the acknowledged basis of the marriage law in all Europe, and in most if not all those states in the Union, where there are no statutes to control it—consent alone to a contract of marriage, *per verba de præsenti*, is sufficient to render the marriage binding, without any other act. That such is the law of New-York (or was such within twenty years) is conclusively shown by the case of *Fenton vs. Reed*, in the fourth volume of Mr. Johnson’s Reports. We believe the law is the same in some other states, at this day. Yet throughout New-England, and probably in most other parts of this country, the local statutes empower magistrates and clergymen only to solemnize marriages, and prescribe the previous publication of banns, and the consent of parents or guardians to the marriage of their minor children or wards. Indeed, the late Chief Justice Reeve of Connecticut, in his treatise on the Domestic Relations, zealously maintains, in conformity with the doctrine above stated, that a marriage is valid, though solemnized before a justice of the peace or a clergyman, in a different county from that in which the one lives and the other is settled—still expressly admitting, that by the statute of that state, “being a clergyman gives him no authority to marry in a county where he is not a settled minister, and that he has no better right to marry there, than a constable or any other man:” and the same of a justice of the peace. So in Massachusetts and the other states of New-England, it is held that a marriage, celebrated before a person having competent authority, is in every respect legal and obligatory, although the statutable requisitions of publication of banns, and consent of parents, &c., in case of minors, are disregarded. As a point of law, it is too late to question this doctrine. As a matter of expediency, we exceedingly doubt it. If marriages are equally valid, when solemnized contrary to the statute, as when they conform to it—of what service are the statute provisions? They may hold the virtuous, the orderly, and the timid part of the community in subjection; but the law is made for the lawless and disobedient. True, the magistrate or minister, who joins persons in marriage otherwise

than is allowed by statute, may be amerced heavily, and forbidden for ever after, from officiating at marriage ceremonies. But if Chief Justice Reeve's doctrine is sound—how will this remedy or prevent the evil? The cashiered justice, or the disgraced clergyman, may continue his offences, and the parties whom he unites, no man can put asunder. And what consolation would it afford to a female trepanned and surprised into a sudden marriage with a scoundrel and a brute; or what alleviation of the anguish of her parents—to know that he who registered her unmeditated vows, and thus consigned her to hopeless bondage and ignominy, has been compelled to pay two-thirds of fifty pounds to the treasury of the county which was the scene of her disgrace, and the other third to some informer, whose object was less to vindicate the law or gratify his avarice, than to blazon her shame and sate his malevolence by opening afresh the wounds of her friends?

In all well ordered communities, the regulation of marriages has claimed the attention of the civil magistrate. Puffendorf very justly says, it may well be enacted by civil powers, that marriages shall not be contracted without the intervening consent of public authority. "The laws of Romulus concerning marriage," says Hooker, "are extolled above the rest which were amongst the heathen which were before, in that they established the use of certain special solemnities, whereby the minds of men were drawn to make the greater conscience of wedlock, and to esteem the bond thereof a thing which could not be without impiety dissolved." Heineccius has the following passage on this point, which we cite in the margin, together with a note, illustrative of the mischievous effects upon the morals of the Romans, which were produced by a disregard of their ancient discipline.*

This subject claimed the early attention of the Pilgrims of New-England. When they left their native country, a *regular* marriage could be celebrated there, only before a clergyman in or-

* "Quùm porrò omnes commixtiones extra matrimonium, quippè ad solam explendam libidinem comparatæ, rectæ rationi adversentur, nec aliud legitimum sit genus humanum propagandi medium, quam societas conjugalis; consequens est, ut et ipsorum conjugum, et liberorum inde natorum intersit, animum hanc societatem contrahendi signo quodam externo testatum fieri, justamque uxorem à concubinâ, maritum à stupratore vel concubinario, liberos legitimos ab illegitimis discerni. Quod quùm commodius fieri non possit, quam si nuptiæ publicæ et solemniter contrahantur; facillè reddideris rationem cur omnes penè gentes, certos ritus nuptiales, arbitrarios illos quidem, ast ad declarandum consensum nuptialem, officiaque conjugum significanda idoneos, adhibendos existimarint." *Elementa Juris Naturæ et Gentium*. Lib. II. § 42.

"In a note on this passage, it is added—"Id tantùm moneo, Romanos, oblanguescente paulatim vetere illâ disciplinâ, eo demùm devenisse, ut nullum penè ritum amplius adhiberent, eoque factum esse, ut sæpenumero dubitaretur justane uxoris an concubinæ locum in ædibus teneat femina, idque aliquandò ex instrumentis dotalibus, aliquandò ex ipsâ fœminarum conditione qualitateque adfectionis esset dijudicandum. Quam facillè verò supersedissent his quæstionibus, si more majorum certo ritu contraxissent nuptias?"

ders.* With much of the spirit which afterwards prevailed under the Protectorate, the colonial legislature of Massachusetts, in 1646, ordained that *no person whatsoever*, in that jurisdiction, should join any persons together in marriage, *but the magistrate* or such other as the general court, or court of assistants should authorize in such place where no magistrate was near—and that none should join themselves in marriage but before some magistrate or person authorized as aforesaid. Still further to dignify, if not to sanctify, the ordinance of marriage, it was ordered, in 1656, that thenceforth any one of the three *commissioners for ending small causes*, in the several towns where no magistrate dwelt, should be empowered to solemnize marriage between parties legally published,—*provided*, two-thirds of said commissioners were present. As early as 1639, it had been ordained that no persons should be joined in wedlock before the intention of the parties proceeding therein had been three times published at some time of lecture or town meeting, in both the towns where the parties ordinarily resided, or been set up in writing upon some post of their meeting-house door, in public view, by the space of fourteen days. So the law stood until 1692, when every justice of the peace within the county where he resided, and every settled minister in any town, were empowered to solemnize marriages within their respective counties and towns. In 1695, it was thought necessary to enact, that *no person except a justice*, and that within his own county only, *or an ordained minister*, and that only in the town where he was settled, should presume to join any persons in marriage, and that *they* should not do it, unless one or both of the parties were inhabitants or residents in such county or town respectively. It was not till seventy-eight years afterwards, that an Episcopal clergyman was authorized to join in marriage persons who attended on his ministry, although they did not belong to the town in which he dwelt.† This power, we are informed, has there been extended to clergymen of other denominations, since the commencement of the present century.

It is to be noticed, that none of the statutes of Massachusetts, ancient or recent, declare a marriage, not solemnized pursuant to their provisions, to be void. And we should not have been surprised to find that a marriage between parties competent to contract, though not celebrated before a magistrate or clergyman, had been holden by the courts there to be of legal and binding obligation—according to the English doctrine before the Mar-

* The late Chief Justice Parsons said, a *lawful* marriage could be celebrated only in this way. (7 *Tyng*. 53.) The inaccuracy of this dictum is fully shown by the foregoing extract from Sir W. Scott, and indeed by all the text writers on the English matrimonial law.

† See the "Charters and General Laws of the Colony and Province of Massachusetts Bay." pp. 152. 285. 679.

riage Act, and the opinion before cited from the author of the Domestic Relations. But we perceive, and with much satisfaction, that the Supreme Court of that state has decided, that "when the statute enacts that no person but a justice or a minister shall solemnize a marriage, and that only in certain cases, the parties are themselves prohibited from solemnizing their own marriages by any form of engagement, or in the presence of any witnesses whatever. If this be not a reasonable inference," says Mr. Chief Justice Parsons, "fruitless are all the precautions of the legislature. In vain do the laws require a previous publication of banns, or the assent of the parents or guardians of young minors, or prohibit a justice or minister from solemnizing the marriage without these prerequisites. A young and inconsiderate couple may, at a tavern or elsewhere, with or without the presence of witnesses, rush into matrimony, distress their friends, and destroy their own future prospects in life." (7 *Tyng*. 55.) This seems to us to be very sound and salutary—and we leave it to professional perspicacity to distinguish between the *legality* of a marriage thus declared null and void, and that of a marriage, solemnized by a justice or minister without publication of banns, and without the consent of parents or guardians, which the same judge, (and we may add, all other judges) says "would unquestionably be lawful, although the officer would incur the penalty of fifty pounds for a breach of his duty." We leave it also to shrewder casuists than we profess to be, to show the difference betwixt these cases, in point of *morality*. Our notions may be singular, and we are sure they are somewhat unpalatable—but we applaud the strictness of the English "Marriage Act," so far as it renders absolutely null, all marriages not contracted in compliance with its prerequisites. The statute of 26 George II. (styled the Marriage Act) is called by Mr. Justice Blackstone an innovation on the laws and constitution of England; and it "swept away the whole subject of *irregular* marriages, together with all the learning belonging to it, by establishing the necessity of resorting to a public and regular form, without which the relation of husband and wife cannot be contracted." This statute was made, not in derogation of the liberty of marriage, but as a restriction upon it; and it has always been held right that it should be strictly construed. We do not think it necessary to swell our pages by transcribing the numerous provisions of that statute, and shall therefore merely state, that all marriages solemnized in any other place than a church or public chapel where banns are usually published, unless by special license from the Archbishop of Canterbury; or solemnized without publication of banns, or license of marriage from some one authorized to grant it; and all marriages solemnized by license, (where either of the parties, not being a widower or widow, is under twenty-one years

of age) which is had without the consent of the father of the party under age, if living, first obtained; or, if dead, of the lawfully appointed guardian of such party; and if there be no guardian, then of the mother, if living and unmarried; and if the mother be dead, then of a guardian appointed by the court of chancery—are declared to be absolutely null and void to all intents and purposes whatsoever. There are sundry provisions respecting the publication of banns, all of which are designed to give notoriety to the intended marriage, and to prevent the evasion of parental and other vigilance. For instance—the banns must be published upon three Sundays preceding the solemnization of marriage, during the time of service—in the church or some public chapel of the parish or chapelry where the parties dwell—and where the parties dwell in different parishes or chapelries, then in the church &c. of the parish &c., where each party dwells—and where both or either of the parties dwell in an extraparochial place having no church &c., then in the church &c., in some parish &c., adjoining such extraparochial place. And if the parent or guardian of any party, under the age of twenty-one years, openly and publicly declare or cause to be declared, in the church or chapel where the banns are so published, at the time of such publication, his dissent to such marriage—the publication is void.

There are several cases in these volumes, of suits of nullity of marriage by reason of publication of banns in a false name. The principle, on which the court proceeded in all these cases, is well stated by the judge in *Wakefield vs. Wakefield*, vol. i. p. 401.

“The marriage, except in case of a license, is to be performed by proclamation of banns, which is to designate the individual, in order to awaken the vigilance of parents and guardians, and to give them an opportunity of protecting their rights. It therefore requires that the *true* name should be given to them, evidently considering that a name, assumed for the occasion, is a name that will not answer the purposes of the provisions. Accordingly this court has conceived itself to be carrying the intention of the law into effect, when it has annulled marriages, where a false name has been inserted in the banns, though no fraud were intended; upon the ground, that such proclamation was no proclamation referring to that marriage, but to another transaction; the marriage therefore was without proclamation of banns, and consequently illegal. There was a fraud, a want of fidelity and truth, in the application of the banns to the marriage, though there might be no fraud in the original intention. It is, therefore, I think, clear, that if there is a true name, that true name must be used; it may be a name less notorious to the world, than some name which the party has thought fit to assume, but it is not less the true name on that account; it is the name which, it is presumed, the relations, the parents, the guardians are the best acquainted with, and therefore the name which ought to be applied upon such an occasion.—It is, I think, a possible case, that there may be no true name ascertainable as belonging to a particular individual. Suppose the illegitimate child of a person of vague and erratic habits, who has been tossed about the world in a variety of obscure fortunes and situations, who has, at different places, been passing under different names—the child of such a person at a marriageable age (and that, in the female sex, is a very early age) may not be possessed of any name, so clearly established. She has none from her birth, and there may be none so clear as

to be depended upon for so serious a purpose as that of invalidating the marriage. What would be the rule of law in such a case? In my opinion, it would be that such a person would be out of the statute. The law presumes, as is generally true, that every person has a name; but the law which presumes that, and calls for that name, does not compel parties to impossibilities; and if the party is not possessed of that which can be considered as a true name, it would not be unfair to judge of the marriage of such a person upon the old footing of the canon law, which requires banns as matter of regularity, but not as matter necessary to the validity of the marriage."

In the case of *Pouget vs. Tomkins*, vol. ii. p. 142, a marriage was declared void, because, in the publication of banns, one of the baptismal names, and that which had been most commonly used, was suppressed. The name of the party, was *William Peter Pouget*, and he was described in the publication, as *William Pouget*. It appeared that the name of William had been superseded in common use, and that he had constantly been called Peter. In this case, the judge said he could not go so far as to say, that in all cases it is absolutely and essentially necessary that all the names should be enumerated, and that the publication would, on account alone of the omission of one of three names, in all cases be invalidated. Where no fraud was intended, nor any deception practised, and where the suppression was only of a dormant name that had not generally been used, it might be too much, he thought, to hold that a perfectly honourable marriage should be invalidated by such omission. In another case, p. 254, it is said, that where there is a name of baptism, and a native surname, those are the true names, unless they have been overridden by the use of other names assumed, and generally accredited. There may be total variations of the names of parties in banns, and the rule respecting such cases is clear. Such publications, however intended, operate as a fraud. But there may be partial variations, of different degrees, from different causes, and with different effects. The court is not to encourage a dangerous laxity, nor to disturb honest marriages by a pedantic strictness. Varieties may arise not only from fraud, but from negligence, accident, error from unsettled orthography, or other causes consistent with honesty of purpose. They may disguise the name, and confound the identity, nearly as much as a total variation would do—in which case the variation is fatal, from whatever cause it arises. Where it does not so manifestly deceive, it is open to explanation, if it can be given. If the explanation offered implies fraud, that fraud will decide any doubt concerning the sufficiency of the name to disguise the party. The court will hold against the party, that what he intended to be sufficient to disguise the names, shall be so considered as against him. But if the explanation refers itself to causes perfectly innocent, and if it be supported by credible testimony, the court will decide for the explanation, and against the sufficiency of the variation to operate as a disguise, where no

such effect was intended. If the explanation leave the matter doubtful, then evidence of general fraud intended, may be let in to decide what was left undecided on the explanation.

By these principles, so manifestly conformable to sound sense and equity, it is believed all the cases, in these volumes, which regard the publication of banns under false names, were decided. But it was held, (vol. i. p. 434,) that in case of a marriage by license, a false description of the name in the license, was no reason for sustaining a suit of nullity.* A license is not of the same notoriety, as the publication of banns, but is granted on the evidence which the ordinary is content to receive: viz. the oath of the party, as required by the canons of the church: and identity is the material circumstance, and that to which the court principally looks, in cases of marriages by license. In *Days vs. Jarvis*, vol. ii. p. 172, two marriages between the same parties, (the second of which was had for the express purpose of correcting the infirmity of the first,) were declared to be void. A marriage was twice celebrated, by virtue of licenses obtained by the husband, on a representation, the first time, that both parties were of age, and the second time, that he was of age. He was in fact a minor at both times, and his father had never consented to the marriage. The father of the wife, at whose instance the second marriage was procured, had then consented on the part of his daughter.

In the cases to which we have just adverted, arising under the special provisions of a statute, and certainly promising in the outset to be rather jejune and wearisome—we cannot refrain from expressing our admiration of the instructive and interesting manner in which they are illustrated by the comprehensive sagacity, legal acumen, and elegant learning of the great man who was called to examine and decide them.

There are no cases in Dr. Haggard's volumes, in which any question was litigated upon a marriage, (within the purview of the Marriage Act,) which was not solemnized according to the ritual of the established church. The reason doubtless is, that the form is never departed from, except in those instances—some of which we shall presently take occasion to notice,—where the law itself allows the parties to celebrate their marriage according to the rites of their own fraternity.

There is much curious learning, on the subject of marriage forms and ceremonies, in Selden's *Uxor Ebraica*, which we would gladly transcribe into our pages, if this article would not thereby be unreasonably protracted. The customs of the various people among whom Christianity was early introduced, and the

* This decision was affirmed in the High Court of Delegates. 1 Phillimore's Reports, p. 224.

forms early adopted by the Christians, are the subjects of several instructive and very entertaining chapters, in his second book. He states that the Christians, who were converted from Judaism, during the first thirty years after the Saviour's ascension, adopted the Jewish rites and forms of matrimony; and that afterwards, when Christianity was received by Pagans, these rites contained an accommodating mixture of Jewish and Pagan ceremonies, so far as was not inconsistent with Christian principles. This is illustrated by numerous descriptions of the forms of marriage among different nations, both of the oriental and occidental church. The practice of wedding with a ring, is extremely ancient. It prevailed among the Hebrews, from whom Selden supposes it was adopted by the Greek Christians; by whom also was adopted, from the same source, (probably,) the *ordo coronamenti*, or service of crowning the married parties. "Sacerdos, coronas sumens, coronat primò sponsum, dicens: Coronatur servus hic Dei N. ancillâ Dei hâc, in nomine Patris, ac Filii, ac Spiritus Sancti." The same words (*mutatis mutandis*) were then pronounced by the priest, upon his crowning the bride. It seems, however, that it was optional with the parties, whether they would conform to this part of the service: "*Si verò volunt coronari, intrant in sacrariam cum cereis accensis, præeunte sacerdote cum thymiamate et Psalmum 128 recitante*"—and the coronation was performed in the manner above stated. The use of *the ring* in marriage ceremonies, as nearly as we can collect from this author, and some other sources,* was merely the adoption of *that* as the specific *arrha* vel *arrhabo*, (a token) which had been substituted, very generally, as a symbolical delivery of the *Pecunia* or *Nummus*, which was extensively held, (especially in the Roman empire,) to be a necessary consideration (*quid pro quo*) of a marriage compact.* The presentation of money, or other property, which was originally made on such occasions, was probably found to be troublesome, and perhaps was also regarded by the Christians, as susceptible of a construction, or at least that it might suggest associations, of a sordid kind, wholly incompatible with that holy and mystical union, which they ascribed to Christian marriage.

In the early Greek Church, according to Selden, the priest gave a golden ring to the man, and a silver one to the woman—saying to the man, (as he translates it from the Greek language)—"N. servus Dei despondet hoc arrhabone N. ancillam Dei, in nomine Patris et Filii, et Spiritus Sancti nunc et semper et in omnia sæcula sæculorum, Amen."—and repeating the same words, with the necessary variation, to the woman. This was done three

* See PUTTERI, *Elementa Juris Germanici Privati Hodierni*, (second edition.) § 210 in not. HEINECCI. *Antiq. Rom. Jurisp.* Lib. iii. tit. 16. § 20.

times, and he then signed them on the head with the sign of the cross, and put the rings on their right hand fingers—"digitis dextris eorum imponit." The light in which the ring and the right hand were regarded, at that early period, may perhaps be ascertained, partially at least, from the following clauses of the prayer which succeeded this investiture: "Intueare servum tuum N. et ancillam tuam N., et firma fac sponsalia eorum in fide, concordia, et veritate, et amore. Nam tu, Domine, docuisti arrham dandam atque omnino firmam fieri. Per *Annulum* donabatur potestas Josepho (a) in Ægypto. Per *Annulum* gloriam nactus est Daniel (b) in regione Babylonis. Per *Annulum*, detecta est veritas Thamaris (c). Per *Annulum* Pater noster cœlestis misericordiâ usus est erga filium suum. Date, (d) enim dixit, *Annulum* in dextram ejus; et occidite vitulum saginatum, et manducemus et epulemur. Ipsa *dextra tua*, Domine, castra Mosi metata est in mari rubro. Nam per verbum tuum veritatis, cœli firmati sunt, et terra est stabilita. Et *dextra* servorum tuorum benedicetur verbo tuo forti, et brachio tuo celso. Tu igitur nunc, Domine, benedicas hanc *Positionem Annulorum* benedictione cœlesti, et Angelus Domini præeat eis omnibus diebus vitæ eorum."

In the western, as well as the eastern church, the ring seems to have been used, from the earliest days, in celebrating the rites of marriage.* As early as the year 860 after Christ, Pope Nicholas I., in his answer to the Bulgarians, as cited by Selden, states the ceremonies and service which this church (the western,) required for the due ratification of nuptials. Among these we find—"arrhis sponsam sibi sponsus per digitum fidei annulo insignitam desponderit." The *crown* also is mentioned; and the celestial veil (velamen cœleste) of which we find no trace in the oriental church. Isidorus is quoted to show that the ring was put upon the fourth finger, because in that finger is a vein which reaches to the heart. Selden declines a discussion of this point of anatomy, but refers to Appian, who states that a similar belief prevailed among the Egyptians, (except that they called it a nerve, instead of a vein,) and that from this source, the custom of the ancient Grecians and Romans wearing a ring on that finger, was undoubtedly derived. We have heard doubts expressed with regard to this designation of the *digitus annularis*. Some have supposed that the fore finger was meant—others, that the one next to the little finger is denoted—and the practice is said not to be uniform in the Episcopal churches in this country. It will be recollected, that the rubric directs that the ring shall be placed by the man, on the fourth finger of the woman's *left*

(a) Genesis xli. 42. (b) Daniel vi. 17. (c) Genesis xxxviii. 25. (d) Luc. xv. 22.

* "Annuli pronubi admissio vetustissima." *Seld.*

hand. Had this rubric been made in other days, we should not have been surprised if a prayer had been appended to it, alluding to the Proverbs of Solomon—"in her left hand riches and honour." If there were a vein, or nerve, in the fourth finger of the right hand of an ancient Egyptian or Grecian, which communicated directly with his heart, we have no doubt that the same is true of the same finger of the left hand of a modern English or American lady. We have seen a passage in Selden, though we cannot now turn to it, which we thought conclusive on this *quæstio vexata* about the genuine fourth finger in the Christian law matrimonial. He sometimes speaks of the *digitus annularis*, as the third from the thumb (imponendo tertio à pollice digito.) Among the Jews, as near as we can learn from a passage of the Babylonish Hebrew ritual, cited in the *Uxor Ebraica*—the husband put the ring upon the wife's *index*, that is, her fore finger. *Digito indicis sponsæ applicat*—says Skenius. In some churches in the north of Europe, the ring was put on the fore finger, in the name of the Father, and then withdrawn, and put on the next finger, in the name of the Son, and then upon the fourth, (where it was left,) in the name of the Holy Spirit.

In the ancient Roman ritual, (*ordine Romano veteri*) the blessing of the ring, and the application of it, were in this manner:—"Benedic, + Domine, Annulum hunc, quem nos in tuo nomine benedicimus +, ut quæ eum gestaverit, fidelitatem integram suo Sponso tenens, in pace et voluntate tuâ permaneat, atque in mutuâ charitate semper vivat. Per Christum Dominum nostrum. R. Amen.

"Deinde sacerdos aspergat Annulum aquâ benedictâ in modum Crucis, et sponsus, acceptum Annulum de manu sacerdotis imponat in *digito anulari sinistræ manus* sponsæ, sacerdote dicente; In nomine Patris +, et Filii, et Spiritus Sancti. Amen."

Some latitude was allowed, as to the form of words and proceedings, in deference to the received usages of the different provinces subject to the Roman See. Isidorus says—"Post benedictionem per vittæ candidæ permistim et purpureæ *unum invicem vinculum* (nodum amatorium—a true love's knot) copulabantur, videlicet *ne compagem conjugalis unitatis disrumpant*."

We will close these references to ancient forms—which we fear have already wearied our readers—by a short notice of English ceremonies. In the ancient Catholic Anglican ritual "quod Manuale secundum usum sacrum seu Sarisburiensem, nuncupatur," the man used these words—which we give in the original orthography—"I N. take the N. to my wedded wife, to have & to hold fro this day forward, for better for wors, for richer for poverer, in syknesse & in hele tyl dete us depart, if holy church it woll ordaine, & thereto I plight te my trouthe."

In return, the woman said—"I N. take the N. to my wedded housbanden, to have & to hold fro this day forward, for better for wors, for richer for poverer, in sykenesse & in hele, to be *bonere* and *buxum** in bedde & in borde till dethe us depart, if holy church it woll ordaine, & thereto I plight the my trouthe." Hereupon gold and silver and a ring were placed by the man in a book, or a plate, and the priest inquired if the ring had been blessed—if informed that it had not, he proceeded to bless it, in the form prescribed in the ritual, and to sprinkle it with holy water. After this ceremony, (and without it, if the ring had before been blessed) the man repeated after the priest—"With this ring I the wed, & this gold and sylver I the give, & with my body I the worshipec & with all my worldely catel I the endowe." He then put the ring on the woman's thumb, *in nomine Patris*, then on the second finger, saying, *et Filii*, then on the third, saying, *et Spiritus Sancti*; then on the fourth, saying, *Amen*—and there the ring was left, "*quia in medico est quædam vena procedens ad cor.*" (This, by the way, seems also to prove what was understood by *digitus quartus seu annularis*.) The parties then bowed their heads, while this benediction was pronounced—"Benedicti + sitis à Domino, qui fecit mundum ex nihilo. Amen." To all this succeeded the reading of the 28th, 29th, and 30th verses of the 68th Psalm, and further prayers and benedictions, when the parties advanced to the foot of the altar, the priest, *cum suis ministris*, repeating the 128th Psalm, *eundo*—and after the doxology and what usually accompanied it, the husband and wife lay prostrate *ante gradum altaris*, and other prayers were made, and benedictions pronounced. Mass was then performed, and four priests held a covering—"extenso super eos pallio"—over the prostrate wedded parties. Bread, and wine "*vel aliud quid potabile*" were then consecrated, "*et gustent in nomine Domini, sacerdote dicente—Dominus vobiscum*"—"Et sequuntur item benedictiones singulares cubiculi sponsalitii ac lecti ipsorumque in lecto sponsum, nocte sequente peragenda."—Such was the use of Salisbury.

The use of York—"Manuale secundum usum ecclesiæ Eboracensis," was somewhat different. The man said to the woman, "Here I take the, N. to my wedded wife, to have & to hold at bedde an at borde, for fairer for fouler, for better for worse, in sykenes & in hele, tyl dethe us depart. And thereto I plyght the my trouthe." He wedded her in these words—"With this ring I wedde the, & with this gold and silver I honoure the, & with this gift I honoure the."

* Whatever may be the use of these words at the present day, they were intended here for *meek* and *obedient*.

“Sic ordines illi Sarisburiensis et Eboracensis, qui seculorum sunt vetustiorum.” *Seld.*

Subsequently, the custom of marrying at the door of the church, prevailed extensively in England, and the wife was there endowed by the husband. But we eschew any research, on this point, among the old law books in the Norman French language. Upon the reformation of the Order of Matrimony by the parliament under Edward VI. (A. D. 1548,) marriages at the church door ceased. The form of plighting troth, which was prescribed by the Use of Salisbury, above quoted, was then altered. After the words “sickness and health,” as in that form, the man added—“to love and to cherish till death us depart, according to God’s holy ordinance, and thereto &c.”—and the woman promised “to love, cherish and obey” her husband—who thereupon gave her a ring, “and other tokens of spousage,” which were put into a book, and the ring being taken by the minister, was by him delivered to the man, to be placed on the fourth finger of the woman’s left hand. (Selden supposes that in England, before that time, the ring used to be put on a finger of the right hand.) The ritual of Salisbury was followed, in the ceremony of wedding with the ring, except that the word “goods” was substituted for “cathel.” The presbyter then pronounced the parties “esse virum et uxorem, in nomine Patris, &c.” and the eucharist was administered to them. In 1552, upon a revision of the Anglican liturgy by authority of parliament, the words “this gold & silver I thee give” were omitted in the marriage service. “Formula hæc sic emendata usque ad nos (*Selden*) obtinuit, deusto tempore Mariæ Reginae, quod circa septennium erat, quo Ritualia vetera adeoque Manuale illud auctoritate item Parliamentaria in usum rediit; uti et Liturgia illa Edwardi Sexti in Elizabethæ initiis.”

Some alterations were made in the liturgy, during the reigns of Elizabeth and James—and the last touch was given to it, by the authority of Parliament, in 1662, shortly after the Restoration. But no further change was made, we believe, in the marriage service,—at least, none was made in the form of words used by the husband on wedding with the ring. It is said, the commissioners who were appointed to make the last revision, in the time of Charles II. agreed to substitute the word *honour* for “worship,”—(“with my body I thee honour”) and that by some inscrutable mistake, this verbal amendment was not reported for adoption. The Episcopal Church in this country have omitted these words entirely.*

* In Martin Luther’s *Colloquia Mensalia*, or *Divine Discourses at his Table*, is given his “Praier before his Marriage”—which we insert:—

“Loving heavenly Father; forasmuch as Thou hast placed mee in the honour of thy name and office, and wilt also have me to bee named and honoured a fa-

We have already seen how marriages were *solemnized* during the Protectorate, and also what is the present form required in England. The Episcopal form, in the United States, is too well known to our readers, to require any account of it.

It appears then, that from the first introduction of Christianity among the Gentiles, marriage has been almost universally regarded as a compact which ought to be ratified by religious ceremonies. It is equally susceptible of proof, that similar views were entertained, not only by the Jews, but also by most of the Pagan nations that ever emerged from barbarism. There are perhaps a few exceptions. St. Bernard asserts, that in Ireland, no form of marriage was adopted or known by the inhabitants, until that of the Roman Church was introduced by St. Malachi, in the former part of the twelfth century.* But we need not this evidence of the barbarous condition of Ireland at that period.

Though the intervention of a priest or Levite was not required in the marriage ceremonies of the ancient Hebrews—and we believe is not by the existing descendants of that race—yet in some Pagan countries, *antistites ceremoniarum et sacrorum* officiated in *solemnia nuptiarum*. The first Christians, who followed the Jewish rites, of course held marriage to be valid and orderly, although not sanctioned by the official services of their ministers. But as early as the commencement of the third century of the Christian era, at the latest, the fathers of the church taught that matrimony ought to be ratified *sacerdotis præsentiâ*. Indeed, if the disputed letter of Ignatius to Polycarp, on this subject, be genuine, this doctrine is traced to the time of the apostles. We are told, however, that its genuineness is not admitted by the learned. However this may be,—and however futile and childish may be some of the arguments and proofs adduced from the ponderous folios of Christian antiquity—the custom is not only hoary with the reverent respect of centuries, but is entitled to deference, as we think, both on account of its signal propriety, and the character and motives of a majority of those who attack and would explode it. While we would enforce no religious observance on any unwilling worshipper, we would defend the right of voluntary homage to religious order, and to established authority, whether republican, regal, or pontifical.

From this digression, we return to the “Judgments of Sir William Scott.”

ther, grant mee grace, and bless mee, that I may rule and maintain my loving wife, children and servants, Divinely and Christianlike. Give mee wisdom and strength well to govern and to bring them up; give also unto them good hearts and wills to follow thy doctrine and to be obedient. Amen.”

* “*Contractum conjugiorum aut ignorabant aut negligebant.*” *De Vita S. Malachiæ Episcopi Liber.*

The English Marriage Act does not extend to Scotland. "I am old enough," said Sir William Wynne, in 1802, "to remember the passing of that Act; and I recollect well, that there was an intention, at the time, of introducing another act of Parliament, which was to extend to Scotland; but by the Act of Union, the state of religion is not to be touched—it is to remain exactly as it was, and therefore there was a difficulty arising out of the Act of Union, in applying the Marriage Act to that country." A most interesting case was decided by Sir W. Scott, in 1811, which called forth an elaborate discussion of the Scotch law of marriage. It was a suit for restitution of conjugal rights, brought by the wife against the husband, in which the main question regarded the validity of a Scotch marriage, *per verba de præsenti*, and without religious celebration.—John William Henry Dalrymple, of a noble family, being a cornet in his Majesty's dragoon guards, went with his regiment to Scotland, at the age of nineteen, and during his residence there, quartered in and near Edinburgh. He there became acquainted with Miss Johanna Gordon, of a respectable family. But he had strong reasons for supposing that his father would disapprove of his connecting himself with her by marriage. These young persons, therefore, in the first place, secretly made a mutual written *promise* of marriage—afterwards a mutual *declaration* and acknowledgment of a marriage—and she produced in court a renewed declaration in writing, made by him, seven weeks after the first, accompanied by a promise of acknowledging her, the moment he had it in his power; and an engagement on her part, that *nothing but the greatest necessity* should compel her to publish their marriage. Of this engagement she was repeatedly reminded by his letters to her, wherein he enjoined the obligation of the strictest secrecy—which she observed even to the extent of making no communication to her father's family—"though the attachment, and the intercourse founded upon it, did not pass unobserved by one of her sisters, and also by the servants, who suspected that there were secret ties, and that they were either already, or soon would be married.—He wrote many letters to her expressive of the warmest and most devoted passion, and of unalterable fidelity to his engagements, in almost all of them applying the terms of husband and wife to himself and her." They were in the habit of having clandestine nocturnal interviews, both at Edinburgh and at Braid—the country seat of her father—and he continued to write letters of a passionate and even conjugal import, and to pay clandestine visits during the whole of his stay in Scotland, which was shortened by his father, who removed him back to England in July 1804. He remained in England till 1805, when he sailed for Malta. "His last letter, written on the eve of his departure, reinforced his injunctions of secrecy, and conjured her to

withhold all credit from reports that might reach her of any transfer of his affections to another: it likewise pointed out a channel for their future correspondence." He continued abroad till May 1808, with the exception of a month or two in 1806, when he returned, unknown to his father and to the lady. On this occasion, he disclosed the alteration of his affections to a friend of his family, to whom he gave some account of the connexion he had formed with Miss Gordon in Scotland—complained of the consequences of it, in being tormented with letters from her, which he was resolved never to read in future; and having reason to fear she would write to his father, he requested his friend to use all means of intercepting any letters which she might write either to the one or the other. Many of her letters were accordingly intercepted. On Mr. Dalrymple's unexpected return to England, in May 1808, about a year after the death of his father, he almost immediately—contrary to the most anxious advice of the friend above-mentioned—married another lady, "in the most formal and regular manner." Miss Gordon, instantly, upon hearing authentic news of this event, took measures for enforcing her rights; and being informed that Mr. Dalrymple was amenable only to the jurisdiction of the Consistory Court of London, she applied for its aid to enforce the performance of what she considered as a *marriage contract*.

Learning and ingenuity were exhausted in Mr. Dalrymple's defence against this claim; but it was triumphantly sustained by the court, in a judgment which was rarely if ever excelled in profundity of erudition, conclusiveness of reasoning, and splendour of judicial eloquence.

The extract which we made from this judgment, in a previous page, will show the general ground on which the learned judge proceeded. He had, however, to encounter the strifes of the Scotch lawyers, who differed on some essential points, in the relation to the peculiar law of Scotland. For by that law, and that alone, was this alleged marriage to stand or fall. And if ever there was an arbiter fitted *tantus componere lites*, he was found in this instance, in the chair of the Consistory Court.

We quote only two paragraphs, in addition to what we have already taken from the opinion pronounced on that occasion.—

"In *Scotland*, if there are circumstances which require the marriage to be kept secret, the woman, after such private declarations passed, [mutual declarations of marriage] carries her virgin honours to the private nuptial bed, with as much purity of mind and of person, with as little violation of delicacy, and with as little loss of reputation, as if the matter was graced with all the sanctities of religion. It is in vain to talk of criminality, and of grossness, and of gross ideas. In such a case, there are no other ideas excited than such as belong to matrimonial intercourse. It is the 'bed undefiled' according to the notions of that country."

The judgment of the court, which occupies eighty-three pages, concludes in this manner:—

"Little now remains for me, but to pronounce the formal sentence of the Court; and it is impossible to conceal from my own observation, the distress which that sentence may eventually inflict upon one, or perhaps more individuals; but the Court must discharge its public duty, however painful to the feelings of others, and possibly to its own; and I think I discharge that duty in pronouncing, that Miss Gordon is the legal wife of John William Henry Dalrymple Esq. and that he, in obedience to the law, is bound to receive her home in that character, and to treat her with conjugal affection, and to certify to this Court that he has so done, by the first session of the next term."

This cause was carried, by successive appeals, to the Court of Arches, and to the High Court of Delegates. On the 19th January 1814, in the court of last resort, the sentence of the Consistory Court was affirmed. Of the subsequent history of the parties we have no knowledge—though we do not affect incuriousness concerning it. We should like to learn the effect, on domestic happiness and order, of the enforcement of a sentence of "restitution of conjugal rights." There is no such process, we believe, in any part of the United States. Bigamy is here punished by the courts of criminal jurisdiction—as in England—but we know of no legal remedy for the lawful wife, in such case, except a divorce. And we confess that the moral sublimity (to which we are not insensible) of the legal triumph of sacred principles, is, nevertheless, somewhat impaired, in the case just noticed, by a lurking distrust of the efficacy of that triumph to reclaim an alienated heart, or restore a spirit crushed by grief.

The English Marriage Act does not extend to the marriages of Jews or Quakers. They are allowed to conform to their own usages.

The case of *Lindo vs. Belisario* came before the Consistory Court in 1795. It was brought for the purpose of trying the validity of a marriage according to the Jewish rites. It was a case of jactitation, instituted by the wife against the asserted husband, by the direction of the Lord Chancellor. Under the sanction of that high authority, Sir W. Scott applied himself closely to the investigation of the question, though he seemed to have considerable doubt, if not of his jurisdiction, at least of the propriety of exercising it in that case—as it was a question between persons governed by a peculiar law of their own, and administered, to a certain degree, by a jurisdiction competent to decide it with peculiar advantage, and with sufficient authority. There is a tribunal, it seems, among the Jews, composed of an Archisynagogus and Assessors—persons of competent learning and abilities to decide their matrimonial questions. They had called before them the parties in this case, and on deliberate examination, pronounced the ceremony, which was relied on as a marriage, to be a *doubtful betrothment*, and that the asserted married woman was a *doubtful betrothed*.—She was very young, and her guardians, in a petition to the Chancellor, represented

their fears that a *marriage* would very soon take place unless his authority were interposed to prevent it. She was removed under the care of her brother for that purpose, and placed under the protection of the Court of Chancery.

The libel in this case charged, "that Mr. Belisario had boasted of a marriage which is not good and valid in law." He admitted the fact of jactitation, and at the same time asserted, as he well might, the *factum* of the marriage, and its validity. The *factum* of the ceremony, as alleged and proved, is thus described:—

"That before sunset, and between eleven and twelve o'clock in the morning of Friday, the 26th day of July 1793, *Esther Mendes Belisario*, then *Lindo*, thereby meaning *Esther Lindo*, spinster, the minor in this cause, went to and met *Aaron Mendes Belisario*, the other party in this cause, at the house of his brother, *Jacob Mendes Belisario*, in Little Bennet street, for the performance of their marriage; and *Abraham Jacobs* and *Lyon Cohen*, two credible persons of the Jewish nation, attended at the said house, to be present at the ceremony thereof; that the said *Aaron Mendes Belisario*, then, in the presence of the said *Abraham Jacobs* and *Lyon Cohen*, addressed himself to the said *Esther Mendes Belisario*, then *Lindo*, the minor aforesaid, in the words or to the effect following: 'Do you know, that by taking this ring, (meaning a ring which he then produced to her,) you become my wife?' to which she answered, 'I do.' That he then said to her, 'Do you take this ring freely, voluntarily, and without force?' to which she answered, 'I do;' or they, the said *Aaron Mendes Belisario* and *Esther Mendes Belisario*, then expressed themselves in words to that very effect; and the said *Aaron Mendes Belisario*, immediately thereupon, in the presence of the persons aforesaid, delivered to and placed upon the FORE FINGER OF THE LEFT HAND of the said *Esther Mendes Belisario*, which she tendered to him for that purpose, and freely and voluntarily accepted and received the said ring, and at the same time repeated to her *certain words in the Hebrew language.*"* Vol. i. pp. 223, 224.

It cannot escape notice, that among "the manifold ritual provisions made by the divine lawgiver of the Jews, for various offices and transactions of life, there is no ceremony prescribed for the celebration of marriage." They, however, profess to believe, that the ceremony above described was instituted by Moses, as a law of marriage, and that the further ceremonies usually adopted by them are wholly derived from the rabbinical laws. Whether this ceremony were alone sufficient to constitute a complete marriage, was the question which the court was called upon to decide, by an application of the principles of the law, as held by the Jewish Portuguese Church, of which the parties were members. It did not appear, in the investigation, that there were any peculiar local usages or traditions on this subject, among the Israelites, in the different countries of Europe. Their general matrimonial law, therefore, as found in their approved authorities, was the subject of anxious search and discussion. And here, as in the case of the Scotch marriage before noticed, the

* The translation of these Hebrew words into English, is, "Behold, thou art sanctified (or prepared) unto me (or, thou shalt be holy to me) with this ring, according to the law of Moses and Israel." Vol. i. Appendix, p. 16. Ikenius translates these words into Latin, thus: "*Ecce tu mihi desponsata es annulo hoc secundum legem Moysi et Israelis.*" *Antiquitates Hebraicæ. Pars. iii. cap. 1.*

judge, on applying to professional men, who would naturally be expected to be best acquainted with the particular legal system which it was their especial business to understand and expound, found himself involved in perplexity by their conflicting statements and opinions.

The ceremony that passed in this case, is called the *Kedushim*, which was alleged, on the one side, to be a perfect marriage; but on the other side, a *Ketuba* was asserted to be essential to constitute effectual matrimony—that is, (as expressed in the plea of Miss *Lindo*,) “a formal contract, in the Hebrew language, must be entered into by the bridegroom with the bride, according to the rites and ceremonies of the Jews, and the rules of the Jewish congregation to which the parties belong; and such contract must be drawn up by the priest or minister who marries them, and be signed by the bridegroom and two witnesses, and must be also entered and registered in a certain book or books kept for that purpose in the synagogue, or by the priests or ministers of such congregation, and the entry thereof must be signed by the bridegroom and two witnesses, which being done, the original contract is always delivered to the bride.”

The opinion of the learned Jewish witnesses on this point being contradictory and obscure, the Court looked beyond their evidence.

“What,” says the judge, “are the rabbinical authorities most attended to by the Portuguese Jews? The answer is, *Maimonides* and *Beth Joseph*. To the character of *Beth Joseph*, I must acknowledge myself to be an entire stranger. The name of *Maimonides* is familiar enough to all literate persons, as the name of a very learned and eminent scholar, who digested and abridged the Talmud. I understand that his commentary is considered by many, as almost of equal authority with the text. Of *Beth Joseph* also, I am informed that the book is an authority of great weight, and that the author is above all exception, in respect to his integrity and erudition. These, therefore, are opinions which it would be highly desirable to obtain; for those who gave them were persons who have delivered their doctrines on general principles, without looking to particular cases, and without influence of any personal nature. They would therefore be witnesses of the highest character, whose fame has diffused itself among Christian scholars, also, as well as Jews, and towards whom the court would, upon every consideration, be disposed to join in the general respect which is paid to them, upon every question of this kind. A passage has been quoted from *Maimonides*, according to the translation of Mr. Selden: ‘*Quamprimum puella acquisita est et sponsa facta, citrà coitum, citràque deductionem verè uxor esset, adeòque etiam ut quisquis præter sponsum, cum eà rem haberet, is ultimo supplicio, ut adulter, esset puniendus. Nec sine libello repudii, post matrimonium seu sponsalia ejusmodi potuit ejici.*’ Selden says this was the general doctrine, and refers to the Talmud, *Misna*, *Gemara*, and to the ancient and modern Doctors.

“As to the other authority, that of *Beth Joseph*, I find that opinion quoted by Mr. Lyon, in these words, ‘that a marriage by *Kedushim* alone cannot be invalidated.’ Now, if one could depend on these opinions of *Maimonides*, as delivered by Mr. Selden, and of *Beth Joseph*, stated on oath by Mr. Lyon, I think they would be sufficient to decide this question, and ought to be received with perfect acquiescence. This, then, is the footing on which these parties stand. If the opinion of *Maimonides* can be relied on, they are actually man and wife; and,

according to the other opinions, it is to be presumed, that if the injunction of the Lord Chancellor was relaxed, they would be man and wife, without any further celebration. The man has the moral right, and I should presume, also, according to the Jewish Church, a legal right, to call on her to submit."

Finding that this question might affect the rights of a great body of British subjects, and feeling himself on novel ground, where doubts ought to be entertained, and points sifted with great caution—the judge declined proceeding to a decision, without fuller information; and adopted the precaution of framing a few particular questions, which he addressed to the Bethdin, a judicial synod of the Jews. Among these questions, were the following:—viz.

"1st. Whether it is admitted, that Beth Joseph, (who is proved in this cause to be one of the principal guides of the Jewish Portuguese Church,) has laid it down that the Kedushim alone cannot be invalidated?"

"2d. Whether the assertion of Maimonides, as cited by Mr. Selden, *Uxor Ebraica*, lib. ii. c. 1, in which it is declared, that the woman who has received Kedushim is *verè uxor*, truly a wife, although consummation hath not passed, is an assertion without foundation?"

"3d. Whether the passages in the Misna and the Gemara, referred to by Mr. Selden, in confirmation of this assertion, do or do not support the same?"

"5th. Whether a woman can be dismissed after Kedushim, except for such reasons as are legitimate causes of divorce after marriage."

On a subsequent day, the cause came on again, on the Answers of the Bethdin, to the Questions proposed by the court. To the *first question*, the Bethdin say—

"When Kedushim is given, with all the circumstances necessary for the performance of the ceremony, and the parties labour under no disability of age, consanguinity, affinity, mental disability, or precontract in the female—and the ceremony was then performed in the presence of two competent witnesses—that ceremony is termed by the Hebrews, *positive and complete betrothment*; but when any one of the circumstances, which are absolutely essential, is wanting, it is then no Kedushim at all, and is null and void. If, from the evidence of the witnesses, it cannot be inferred whether all the circumstances necessary for the perfection of the ceremony, as where there is ground to suspect the qualification of the witnesses, or the ability of the parties; it is pronounced a *doubtful betrothment*, for it hath peculiar effects; and such a decision, is a complete and excellent judgment from a Jewish tribunal, it being conformable to the Jewish laws. In each of these instances, respectively, the tribunal neither renders valid nor invalid, nor doubtful, but merely applies the law to the fact. In a fourth instance, it may be said, that the Kedushim can be invalidated; and that is, when the betrothment has been effected with all requisites, both in perfection of act, ability of parties, and qualification of witnesses; but if the parties, in the performance of that act, have trespassed on some rabbinical injunction, and transgressed some by-law instituted for the good order of society, those Kedushim are voidable, and can be invalidated by the Bethdin; for there is an established rule in the Talmud, that says, 'Whoever gives Kedushim, it is with the approbation and consent of the rabbies.' The Bethdin can render the Kedushim invalid, by alienating, *ab origine*, that property whereby the man effected betrothment. Every Bethdin, of whatsoever time and place, may exercise that discretionary power; but we never assumed that authority, because we do not find upon record any precedent, wherein our predecessors exercised that power, though warranted by law. *All that we have said here, is not only the opinion of the author of Beth Joseph, but of every learned Jew.*"

The answer to the *second* and *third* questions, is thus:—

"The assertion made by Mr. Selden, that the woman, who has received Kedushim, is *verè uxor*, is unfounded; for the faithful translation of the Hebrew words, is an appellation applicable both to a woman who is simply betrothed, as also to a married woman, wife or *uxor*. But the special name for a married woman is, in the rabbinical style, *Nessua*, *taken*, *nupta*; and in the Scripture style, *Behulah Behal*, *Lorded of*, or by a *Lord*. Mr. Selden is right, in what he asserts, 'that if any man, except the betrother, should have connexion with a woman, though but simply betrothed, he would incur the punishment of death: and also, that to be released, she must have a divorce; for in this respect, she is like a married woman.' It is merely as to the punishment of death, that Mr. Selden refers to the *Misna* and *Gemara*, and not to the assertion of *verè uxor*; for on that very passage of the Talmud, as in every other passage of the same, the Talmud calls the woman, who has accepted Kedushim, *Mehorassa*, or *Arussa*, betrothed—but not *Nessua*, taken, as corresponding with the English word married."

The answers of the Bethdin, and of all the rabbies who testified on the *fifth* question, agreed in stating, that there was no assignable difference between the causes of divorce after Kedushim given, and after marriage—but that great power is given with respect to divorces, in one case as well as in the other.

To an intermediate question proposed to the Bethdin by the Consistory Court, they returned an answer, from which we make an extract:—

"The right, which the man acquires in the betrothed woman, is, that he can demand of her to prepare for being admitted to the matrimonial state, within a convenient time; and when that period is expired, it is expected she will surrender herself, to enter the *Hupa*,* which constitutes marriage; but she is not bound in conscience and law, to submit thereto. The consequences of non-compliance are, that she will be called before the tribunal, and interrogated, why she does not fulfil the marriage promise? If she says, that her non-compliance proceeds from *aversion*, and that she detests the man,—then he is ordered immediately to give her a divorce, and would be legally compelled so to do in case of refusal. But if she alleges frivolous excuses only, the tribunal will admonish her, and if

* The ceremony, called *Hupa*, is thus described by the Bethdin, in their response to a question which we have not copied. "According to Maimonides, and the author of the Beth Joseph—"the man brings the woman, whom he has previously betrothed, to his house, sets her aside for his special end, and is united with her." Which bringing home, appears by the Talmud, to be prescribed to be done in a public and ostensible manner. This bringing home, however, &c. is the very essence of matrimony, though it be not solemnized by the nuptial benediction, nor marriage contract; but it is ordained, that the solemnization and the *Ketuba*, or marriage contract, should precede the marriage, which is never omitted, when things are done in a regular and proper manner. Some, however, describe the *Hupa* to be in the following manner:—The bride and bridegroom are introduced under a pavilion or canopy, attended by the relations and friends; and that the espousal and nuptial benediction being said, constitute the *Hupa*. This is the customary mode used in this country, [England,] and most other countries with which we are acquainted. We are of opinion, that either this or the other mode will constitute *Hupa*."

An Archisynagogus and two assessors, in a previous case, which arose on a disputed marriage in 1776, said, "inasmuch as there did not belong to the Kedushim the nuptial benediction, which, without exception, all Israel used," and the husband did not make to his wife a *Ketuba*, or marriage contract, they were living in *venial* sin, but not *criminal*. This doubtless means, not that the marriage was invalid, but that it was irregular—that the parties were offending against the orders of the church, and that they, probably, like the parties to clandestine marriages under the Canon Law, might remove their sinful character, by subsequent conformity to the public regulations.

The learned reader, who desires to look further into the Jewish forms and ceremonies of marriage, will find much to instruct and amuse him, in Selden's *Uxor Ebraica*, to which we have so often referred. In the first fourteen chapters of the second book of that work, are given the various formulas that are prescribed, and the nuptial benediction and seven blessings that are pronounced, in the different stages of the process through which the parties pass, before all "things are done in a regular and proper manner." Much information may also be collected from Ikenius's *Hebrew Antiquities*, part third, chapter first. This writer, however, does not attempt to describe forms and ceremonies, with any considerable particularity, lest, (as he says in his preface,) "*nimiâ prolixitate molestus esset*."

that proves ineffectual, she is to be called out daily in the seminaries and synagogues, for four successive weeks; and if she continues intractable, at the expiration of twelve months, the man will be compelled to divorce her."

The private rabbies, whose opinions were given to the court in this case, differed materially, on many points. Both referred to authorities, which the judge said he must suppose were fairly cited, though he declared they did not much enlighten him.

"With respect to any question of property, I think," says the judge, "it was proved by the general evidence, that the rights of property did not necessarily follow the Ketuba. The doubt then was, whether there be a right to the person of the wife, (though not to her property,) which might constitute the *vinculum matrimonii*, and give him a right to call on his wife to fulfil it, either by his own authority, or by resort to the Jewish tribunal, which has jurisdiction in matters of this kind.

"Under this difference of opinion on a point which goes to the very root of the question, how is the court to decide, and to which authority is it to adhere?"

"It is to be observed, that the Bethdin is the tribunal which administers the law, in questions of this nature, as it exists in this country, and therefore must be presumed to understand it. * * * Supposing therefore, that the attainments of knowledge are equal in the individuals, I think the balance of the authority must incline to those who are the professors of the law as it is administered in this country. I must consider also, that the opinion of the Bethdin is a judicial opinion, and not merely the opinion of an individual, the weight of which travels no further than the reputation of his own personal attainments. It is an authoritative opinion, which not only conveys knowledge, but is also sanctioned by the qualifications of probity, learning, judgment, and discretion, which must be presumed to have recommended the individuals to the judicial situations which are entrusted to them.

"The Bethdin say, as I think I should, that this is a contract absolutely determinable at the will of the woman; that, if called upon by Mr. Belisario to fulfil the engagement, she has nothing to do, but to say that she detests him, and does not choose to continue his partner. If that is so, I should have great difficulty in saying that there is an absolute vinculum subsisting between them; I must therefore pronounce, if this information is correct, that he has no right to consider himself as entitled to the character of husband.

"It is possible there may be error in the determination. I am sensible of the extreme difficulty which is to be encountered upon a subject so far out of the reach of the ordinary studies of this profession. But it is my comfort that, if there is error, it is not mine. It lies with those who have given this information—who are bound to give it conscientiously, and I am bound conscientiously to receive it. If I was to determine the question of marriage on principles different from the established authorities amongst the Jews, I should be unhinging every institution, and taking upon myself the responsibility, as ecclesiastical judge, in opposition to those who possess a more natural right to determine on questions of this kind. On these grounds I am of opinion than Mr. Belisario has not proved his case, and that *Esther Lindo* is not to be considered as his wife. The words of the decree must be simply—THAT SHE IS NOT THE WIFE OF AARON MENDES BELISARIO."

An appeal was taken to the Court of Arches, where this sentence of the Consistory Court was confirmed, in November 1796. (See *Appx.* to Vol. I. pp. 7—24.) From the judgment of Sir William Wynne, in that court, we learn that this young Jewess was an orphan only sixteen years old, and Mr. Belisario twenty-seven; that the order from the Lord Chancellor, that her guardian should institute a suit in the Consistory Court, was ob-

tained by the petition of the executors of the wills of her father and mother, and the trustees, under her father's will, of about four thousand pounds sterling ; that by her mother's will, the interest of certain moneys was to be applied to her use, until she attained the age of twenty-one, or day of her marriage, provided she married with the consent of the major part of her mother's executors; but in case she married without such consent, then the money was to take another direction ; that the alleged husband was in low circumstances ; that the match was very improvident—and that he insisted that she was, in point of fact, his wife, and threatened to institute proceedings at law to obtain possession of her person and property.

In a passage above cited from the answer of the Bethdin to the first question proposed by Sir W. Scott, the reader will have observed that some stress is indirectly laid upon the proper "qualification of the witnesses" to the ceremony of betrothment. Selden says—"Adeò autem ex contractûs sponsalitii substantiâ semper erant testes, iique idonei, ut si unicus duntaxat adesset, nedum nullus, licet sponsus sponsaque inita pariter faterentur ipsi sponsalia, irritus plane haberetur." In support of this strict doctrine, he refers to Maimonides, by whom he is fully sustained, if we may rely on a Latin translation, which we have examined, or on the concurring statements of learned Jews who gave testimony in another case of jactitation of marriage, which was decided by the Consistory Court of London, in December 1798. We refer to *Goldsmid*, by her Guardian, vs. *Bromer*, reported by Dr. Haggard, Vol. I. pp. 324—336. This was a case of an asserted marriage of a Jewess in her minority, without the consent of her father, and against his wishes, by a clandestine ceremony of the same kind which was adopted in the instance already so fully noticed. The parties, however, had subsequently lived together as husband and wife. The validity of the marriage, therefore, was denied wholly on the ground of the incompetency of the witnesses who were present, as such, at the *Kedushim*. It was alleged, that it is essentially necessary that this ceremony should be performed in the presence of *two* witnesses, competent and credible, and subject to no disqualification imposed by the Jewish laws, which disqualifications may proceed from certain degrees of consanguinity to either of the parties who marry—or from non-conformity to the ceremonies of the Jewish religion ; and that the ceremony in this case was not attested by competent witnesses according to these rules. The objection of consanguinity was admitted to be fatal to the competency of such a witness, but it was contended that it must be relation *ex parte paternâ*. The necessity of conformity was also admitted, but with four limitations—one of which was, that any irregularity or breach of the Jewish laws or ordinances,

must be deliberate and designed, and not the mere effect of human infirmity, or negligence, or mistake.

All the witnesses, who were examined concerning the Jewish law, agreed, that if one witness only is disqualified, it entirely invalidates the ceremony—because there is then only *one* competent witness. Assuming this to be unquestionable, the court proceeded:—

“I shall dismiss from my consideration much irrelevant matter, which has been introduced, particularly with respect to the conduct of the parties; because if I understand the rabbies correctly, if Miss Goldsmid *was claiming the benefit* of marriage, and the attesting witnesses were not competent at the time, the ceremony would signify nothing. Something has also been said of the undue interference of Mr. Goldsmid the father, for the purpose of setting aside this matrimonial union. But every parent is deeply interested in the welfare of his children, as affected by such connexions; and has a right to question a matrimonial contract entered into in the minority of his child; and I do not see that this right has been exercised, on this occasion, with any impropriety. The young lady appears to have been of the tender age of sixteen, with all the inexperience and susceptibility of hasty impressions that are incident to that age, and it is the order of God, and the daily practice of society, that the experience of the father shall protect the inexperience of the child. It is said that he is chargeable with inconsistency, in his manner of behaviour to this young man, as he had received Bromer into his family with great familiarity; but it never can be supposed, that every man who receives a person into his family on a footing of civility, means that he should marry his daughter. It has been observed also, that it would be to the disadvantage of the young lady, that the marriage should now be set aside; but the father has only to choose between calumnies; he has a right to determine as he considers to be best for the interest and happiness of his family—and we must presume he has so done. On the conduct of the young lady, I am unwilling to make any observation unfavourable to her, in consideration of her tender age. But as to Mr. Bromer, though much has been said of the honourable state of matrimony, it must not be forgotten that it may be pursued on dishonourable motives; and though I do not say it is so here, yet when a man who is hospitably received into a family, avails himself of the opportunity of engaging, with clandestinity, the affections of a young lady, I do not think that he is a proper subject of lofty panegyric on that account.

“I throw out of the case, also, all discussion on the reasonableness of the Jewish law, since I must take *that* as I find it. I must observe, however, that it does not seem to be without apology or reason, as I take the intention to be to render clandestine marriages almost impossible. Clandestine marriages are considered as *evils*, in all civilized societies. In England they are discountenanced by the Marriage Act, and generally among Protestants. In many Catholic countries also, the law interposes to prevent them. The law of the Jews, by its original incapacity of repeal, is out of the protection of the laws of the countries in which they dwell; and it seems, therefore, to have done reasonably in providing, that if such contracts cannot be rendered null and void, by positive enactment, they shall be clogged with ceremonies, which render it almost impossible that they should be effectually performed.” Vol. I. pp. 327. 328.

One of the witnesses, whose attestation is an *essential* part of the ceremony of Kedushim, was, in this case, first cousin to Mr. Bromer, being the son of his mother's sister. The only Jewish Doctor, who attempted to support the distinction above-mentioned, between a relation *ex parte paternâ* and *ex parte maternâ*, was one of those who had testified in the case of *Lindo vs. Belisario*; and though he was highly complimented for

his knowledge by the counsel, the judge said a want of learning did not appear to be the principal defect imputable to him, since he seemed to be a Doctor of rather a loose school. "I think," said he, "I perceive something of Sadducean laxity in his opinions, both in this and in the former cause, which detracts a little from the respect which might otherwise be given to his erudition; for I cannot forget, that in the former case he had said that Kedushim, without consummation, was perfect marriage—now he says otherwise." On the authority of the Talmud, and other books of high reputation, this witness was held to be incompetent, on account of his relation, though *ex parte maternâ*.

The other witness to the ceremony was accused of non-conformity to the Jewish religion, and was therefore alleged to be incompetent and disqualified to give validity to a Kedushim. It was proved that he had profaned the Sabbath, by riding in coaches and snuffing candles, stirring the fire and eating forbidden meats—that he had repeatedly, within ten years, done these acts; and upon being remonstrated with on such occasions, replied that he was no Jew, but considered himself as bound only to the exterior observances of the religion, in compliance with the wishes of his father. The learned judge said there could not be a stronger instance of disclaimer of all observance of the regulations and ordinances of that religion—or of an uncircumcised heart—and that his disqualification disposed of the whole case; since as before observed, two competent witnesses were required—but in this instance there was not even one. The court therefore pronounced against the validity of the marriage, declared that Miss Goldsmid was not Mr. Bromer's wife, and sentenced him to perpetual silence on the subject of his claim to her.

Selden says there must be proper witnesses—*testes idonei*—to attest a betrothment, and indeed that they are of the very substance of such a contract. To illustrate still farther than we have already done, the multifarious implications which a laconic legal phrase sometimes involves, we subjoin the answer of an erudite Jew to an interrogatory, filed in the above-mentioned case, respecting the conduct which disqualifies a person to be a proper witness of such of a transaction:—

"Committing murder, blasphemy, eating forbidden food, and profaning the Sabbath, by kindling, extinguishing, or stirring a fire, or snuffing candles, or riding out on horseback, or in a carriage, on the Sabbath-day, are the *principal acts* by which a person becomes disqualified, according to the laws and customs of the Jews, to be a competent witness to give validity to any Kedushim or Jewish marriage contract."

It is refreshing to a liberal mind, to contrast the protection that has been extended, for many years, to the Jews in England and Holland, with the narrow and persecuting spirit by which they were formerly pursued and "peeled" throughout the nations

of Christendom. Erroneously taking the supposed purposes of God for the rule of duty, instead of adhering to the spirit of his commandments, Christian rulers and Christian subjects have waged a most unholy warfare, and perpetrated the most revolting enormities, upon the outcasts of Israel. We hail the dawn of a brighter day, and fervently pray that it may not be overcast. We would further, by our feeble efforts, all practicable and sober means of meliorating the condition of those, to whom pertain the adoption, and the glory, and the covenants, and the giving of the law, and the service, and the promises; whose are the fathers, and of whom, as concerning the flesh, is the Redeemer of the world. And while we approve of benevolent exertions to exalt their character and promote their happiness in other countries, we shall not cease to reprobate the stigmatizing of them with disabilities in any part of our own.

The Marriage Act does not extend to marriages solemnized beyond the sea. Such marriages, when called in question in the English courts, are decided upon according to the *lex loci contractus*.—

“All nations,” says Sir Edward Simpson, “allow marriage contracts; they are *juris gentium*; and the subjects of all nations are equally concerned in them; and from the infinite mischief and confusion that must necessarily arise to the subjects of all nations, with respect to legitimacy, successions, and other rights, if the respective laws of different countries were only to be observed, as to marriages contracted by the subjects of those countries abroad, all nations have consented, or must be presumed to consent, for the common benefit and advantage, that such marriages should be good or not, according to the laws of the country where they are made. It is of equal consequence to all, that one rule in these cases should be observed by all countries—that is, the law where the contract is made. By observing this law, no inconvenience can arise; but infinite mischief will ensue if it is not.”*

He illustrates the effect of a contrary doctrine, by the case of marriage in France, void by the law of that country. The parties come into England, and an attempt is made, by the repudiated woman, to enforce restitution of conjugal rights. If such alleged marriage were to be supported by the courts, on the ground that it would have been valid if similarly celebrated there, the husband might return to France and legally marry another woman, his first marriage being null in that country. He might then return to England, and live there without liability to a prosecution for bigamy—because no felony committed abroad can be tried in England. So if two French subjects, before the passing of the Marriage Act, had clandestinely married in England, the wife would have been entitled, by the English law, to all the rights of a wife. But if this marriage should be held void in France, the husband might take a second wife there, and she would there be entitled to her legal rights, as such—and the chil-

* 2 Haggard, 417—*Scrimshire vs. Scrimshire*; decided in 1752.

dren would be illegitimate in one country, and legitimate in the other.

The last judgment pronounced by Sir W. Scott in the Consistory Court, and reported by Dr. Haggard, brought forward the principles above stated in regard to foreign marriages—and they were explicitly recognised as sound, salutary, and of binding obligation on all courts in which the validity of marriages is directly or incidentally discussed and determined. Three other cases of a much earlier date are subjoined—from which much valuable information may be collected on this important subject. We have just made an extract from the first of them—and can only refer our readers to the others, which were decided in the Court of Arches, in 1776 and 1802, by Sir George Hay and Sir William Wynne, respectively.

After the passing of the English Marriage Act, it was for some time a disputed question, whether *Gretna Green marriages*, as they are called, contracted in Scotland, according to the laws of that country, by English subjects, who repaired thither for that purpose only, were valid in England. But in 1769, this question was decided affirmatively, in the High Court of Delegates—the court of dernier resort—in the case of *Compton vs. Bearcroft*, of which we are not aware that there is any full report extant.

These principles are obviously of immense importance in the United States, where the law regulating the solemnization of marriages, is, or may be different in each of the numerous sovereignties that compose the Union. In some states, the intermarriage of white persons and mulattoes is forbidden, and declared to be utterly void. In other states, there is no such restraint upon the liberty and taste of the people—and we find, in conformity with the doctrine of the English courts, and the *jus gentium*, that where a mulatto and a white woman, inhabitants of a state where they could not legally intermarry, went into an adjoining state, where no such restriction was imposed upon the liberty of its citizens, and there were joined in wedlock,—their marriage, upon their return, was recognised by the highest judicial tribunal, as valid, and they were held entitled to all the legal rights and incidents, as well as the domestic endearments of holy matrimony, (16 *Tyng*, 157.) The same principle has been applied in several other cases in this country; and we are not aware that any of our courts have ever denied it. In some instances, however, they seem not to have proceeded with much confidence, but to have arrived at their result by an unassured groping after the true path. The four last cases in the work now under review, will enable such tribunals as examine them, to move with a firmer step, by illuminating the ground over which they move.

It does not follow, as an inference from the doctrine, that a

marriage, if valid by the law of the place where it is contracted, is valid in all other places—that a divorce or a sentence of nullity of marriage decreed in one country, is necessarily and universally binding on other countries. Sir William Scott said, (vol. i. p. 297,) he was not prepared to acknowledge, that a judgment of a country, on the validity of a marriage, not within its territories, nor had between subjects of that country, would in all cases be binding. For instance—a French marriage is brought in question before a Consistory Court in England—a French judgment on that marriage, would be entitled to much weight; but it does not follow, that the judgment of a court at Brussels, on a marriage in France, would have the same authority—much less on a marriage celebrated in England. And in New-York and Massachusetts, it has been judicially decided, “that if a husband leaves his wife, or a wife her husband, and removes into another state, for the purpose of obtaining a divorce, and a divorce is there decreed, on grounds which would not authorize it by the law of the state where the marriage was contracted, and the parties cohabited—such decree is void in the latter state, and will be treated as a nullity; whether the question arises collaterally, or in a suit by the wife, to enforce the allowance of alimony.” We admire the spirit of the late Chief Justice Sewall of Massachusetts, who declared that the former laws of Vermont, by which the courts were there authorized to proceed in suits for divorce, instituted by persons transiently in that state, against persons resident and domiciled in other states, who were never amenable to the sovereignty of Vermont, were not to be justified by any principles of comity, which have been known to prevail in the intercourse of civilized states. He added, “I must be permitted to say, the operation of this assumed and extraordinary jurisdiction, is an annoyance to the neighbouring states, injurious to the habits and morals of their people; and the exercise of it is, for these reasons, to be reprobated in the strongest terms, and to be counteracted by legislative provisions in the offended states.” Though this evil is removed in Vermont, yet an inspection of the late Mr. Griffith’s Law Register, will show that it still exists in many other states.

It was our purpose to notice some of the cases of divorce reported by Dr. Haggard, and to remark at some length upon the numerous causes and demoralizing facilities for obtaining divorces in the United States. But it is impossible to treat this topic as it deserves, (or even as we intended,) at the close of this too protracted article. We shall therefore only state, that in 1821, there were, in the several states of the Union, more than twenty different causes of divorce, either *à vinculo matrimonii* or *à mensa et thoro*; and that in South Carolina alone, no divorces are granted for any cause whatever. We have yet to learn, that the

marriage vow is less regarded, or that domestic happiness is less generally enjoyed in that state, than in any other section of our country.*

Besides questions of marriage and divorce, the Consistory Court is called to determine respecting faculties for alterations in churches, and for erecting tombs and monuments; to correct clergymen and other persons for brawling and chiding in churches or church-yards, (and, among divers other affairs of ecclesiastical cognizance,) to supervise and control the proceedings of churchwardens in regard to sacred music, and the burial of the dead.

Little needs be said of the manner in which Dr. Haggard has accomplished his part of the labour of compiling these volumes. We see nothing that calls for censure, and much which deserves commendation. The opinions of the court occupy most of his pages—and those which are devoted to statements of the cases and of the arguments of counsel, are not, as too often happens in modern volumes of reports, filled out in a spirit of book-making, but contain succinct accounts of facts, reasonings, and authorities. We applaud, in an especial manner, the reporter's obedience to the injunction of Lord Bacon—*de advocatorum perorationibus, sileto*—and earnestly recommend similar obedience to all reporters in our own country, whether official or volunteers.

To the fame of Sir William Scott, it is not in our power to make any addition. It has diffused itself throughout the civilized world, and is as imperishable as are any human memorials of genius, letters, and wisdom. His services in the High Court of Admiralty, where he has presided for more than thirty years, have probably never been surpassed; whether we regard the splendour with which they illustrate their author—the success with which they have educated, and fixed on an immoveable basis, many of the most valuable principles of international jurisprudence,—or their commanding and salutary influence upon the great community of Christian nations.

The profound learning and elegant scholarship of this great man, appear, perhaps, more inwrought, and blended with the movements of his own mind, in his judgments in the Court of Admiralty, than in those which he pronounced in the Consistory Court of London. The latter, however, will afford most grati-

* “Germani semper perpetuam, dum vixerint conjuges, habuerunt eorum societatem, nunquam soluta divortiorum ac repudiorum libertate usi, licet justas semper agnovissent divortii causas, veluti adulterium in primis, insidias vitæ, et reliq. Hodie, posteaquam planè adhuc aliæ accesserunt indissolubilis ex jure canonico et ecclesiastico rationes, hoc potius quam patrio jure, æstimandæ sunt solvendi inter vivos matrimonii causæ. Sufficit hic, ordinarium dissolvendæ societatis conjugalis modum esse mortem alterutrius conjugis.” PUTTERI, *Elementa Juris Germanici Privati Hodierni*, 1756. See also Tacitus de Mor. Germ. c. 20. HEINECCIUS, *Elem. Jur. Germ.* Lib. i. tit. 14.

fication to mere literary readers: and even to mere professional men, we should hope that the infusion of classical imagery and recollections would not render a judicial opinion less acceptable or useful. The exuberant erudition of Lord Coke was sadly wasted upon his Reports and Institutes: Lord Bacon employed his mighty mind and its acquisitions chiefly in other departments of study and writing—and neither was distinguished by a cultivated taste. The pedantic jargon of their contemporaries, as displayed in prefaces and dedications of Reports, and the sorry rhetoric of the next generation of writers on legal topics—the exclusive devotion of still later lawyers of eminence to their own profession, and the proverbial unacquaintance of numerous judges with every thing pertaining to modern literature—have produced an extensive and too plausible belief that legal science and elegant literature are incompatible, or are allied, if at all, by a most remote affinity. The author of the Commentaries on the Laws of England, and the writer of the Essay on the Law of Bailments, were accomplished scholars—and Sir William Scott, *omnibus togæ dotibus, ingenii ac studiorum eminentissimus sæculi sui, qui nihil in vita nisi laudandum dixit*, has so united the severity of judicial research with the graces of lettered refinement, as to refute the charge which has long been preferred against the profession,—and also, we trust, to incite in our country those lofty aspirations after permanent professional celebrity, which the peerage can never confer nor reward, and which exceeds in lustre even the glories of regal Egyptian ancestry,—

Which, for ten thousand rolling years renown'd,
Shines up into eternity itself,
And ends among the gods.

ART. V.—*A History of the Right Honourable William Pitt, Earl of Chatham: containing his Speeches in Parliament; a considerable portion of his Correspondence when Secretary of State, upon French, Spanish, and American Affairs, never before published; with an account of the principal Events and Persons of his Time, connected with his Life, Sentiments, and Administrations.* By the REV. FRANCIS THACKERAY, A. M. In two vols. Quarto. London. 1827.

A good biography of the illustrious Earl of Chatham, has long been a desideratum in the literature of England. The lives of his son, of Fox, of Burke, and Sheridan, have been recorded, though not with abilities adequate to the task; but no one, compe-

tent to such an undertaking, has essayed, before the present author, to hold up to view the exalted merits and varied excellences of the first of modern Britons. In proportion to the greatness of the subject, should always be the talent of the artist. Mr. Thackeray deserves credit even for having attempted this arduous task, for having faithfully collected and well arranged all that he could find of the public life, and somewhat of the private history of this exalted man. He does not seem to have had much assistance from the family, and it has not been in his power to quote, or to introduce much private correspondence or domestic anecdote. With the exception of official letters from the public offices to which he had a permitted access, he communicates very little that has not been already in print. But almost all that is in print is so scattered and so difficult to trace, that we feel indebted to him for presenting the whole together. The narrative between the reported speeches, which latter form a great proportion of the work, goes forward in a plain, straight road; and the style, although not very ornate, is too good to provoke fastidiousness, and too clear to produce embarrassment. As an honest chronicler, he quietly and unpretendingly conducts us from one event to another, and seldom interrupts the continuous chain by digressive remarks. Although every where conscious of the height and splendour of his subject, he does not suffer his admiration to dazzle him, and when he thinks that he feels the necessity of vindication, in respect to any public measures of his hero, he is moderate, clear, and distinct.

William Pitt was born in the year 1708. At an early age he was sent to Eton, a seminary which has long sustained a great pre-eminence among those institutions which the nobility and gentry of England employ to prepare their children for the University. Doctor Bland was at that time the head master of this school, and is said to have highly valued the attainments of his pupil. George, afterwards Lord Lyttleton, Henry Fox, afterwards Lord Holland, Sir Charles Hanbury Williams, Henry Fielding, &c., were amongst his fellow-scholars. Whether he took part in the usual sports and amusements of young people, we are not informed; but since he was even at this early stage of life attacked by that disorder which finally destroyed him, we may reasonably infer that his attention to study was seldom suspended by his participation in athletic sports. At the age of eighteen he was removed to Oxford; here he continued his labours with great earnestness and success; and a copy of Latin verses on the death of George I., quoted by our author, evinces a correct acquaintance with the language, and a certain degree of poetic power.

The gout attacked him with increased violence at Oxford, and his biographer conjectures it was the cause of his quitting

the University without taking a degree; a supposition not very reasonable, since his progress in literary acquirements does not seem to have been impeded by it. On his leaving college, he visited some parts of the continent, and soon after his return, he was, by the kindness of his elder brother, brought into the House of Commons, as a member for the borough of Old Sarum, which was at that time the *property* of the Pitt family. His elder brother, Thomas Pitt, who lived till the year 1760, appears to have passed through life with no other celebrity than that of his relationship to our great statesman; but he enjoyed the advantage of succeeding to a considerable paternal estate, which he left several children to inherit:—the fortune of William Pitt was moderate. Our author, without appearing to have taken much pains to ascertain it precisely, vaguely estimates it at £4000; and adds, that the necessity of obtaining some honourable employment, by which his income might be augmented, occasioned him to obtain a cornetcy in a regiment of horse. Very little pains would have enabled Mr. Thackeray to fix both the time when this, the only military commission that Pitt ever held, was acquired, and when it was taken from him. Even as to the manner of losing it, we are left in the dark; if he was merely desired to *sell out*, he could have obtained the price he had given; but if it was abruptly taken from him, his slender fortune must have suffered considerably. At the age of forty-six, he married Lady Hesther Grenville. He was, at that time, in possession of the office of Paymaster General; and when he was, by a sudden ministerial revolution, deprived of that support, he had a pension of £1000 per annum conferred on him. These provisions, with the legacy of £10,000 from the Dutchess of Marlborough, “for his merit in the noble defence of the laws of England, and to prevent the ruin of his country”—must have preserved him from being a burthen on his wealthy brother. To the only son of that brother, he appears to have been most affectionately attached; and several letters to him, while at school and college, teeming with the soundest advice, conveyed in the kindest manner, are inserted in the work.

When he afterwards became a father, and had placed his brilliant son at Cambridge, his letters to the latter were probably more frequent. The industry of Doctor Tomline has collected four of them, one of which is published by our author. Nothing can be more tender and affectionate. But they do not, like those to his nephew, contain any advice or directions as to his studies; and we are told by Doctor Tomline, that Lord Chatham interfered no farther with them than to recommend the perusal of Thucydides and Polybius.

The eldest son, who succeeded to the title of Chatham, has been distinguished for little but the unfortunate expedition to

Walcheren; and James, the youngest, who entered into the navy, died at an early age, though not till he had attained the rank of post captain. There were two daughters, one of whom married Lord Stanhope, and the other, the second son of Lord Eliot. Lady Chatham, who is represented as a woman of great merit, survived her husband about twenty-five years. With this family Mr. Pitt seems to have enjoyed entire domestic happiness. Lord Waldegrave, one of his most bitter enemies in public life, has left testimony on this subject in his *Memoirs*, which deserves to be transcribed:—

“However——his private character is irreproachable; he is incapable of a treacherous or ungenerous action, and in the common offices of life is justly esteemed a man of veracity and a man of honour.

“He mixes little in company, confining his society to a small juncture of his relations, with a few obsequious friends who consult him as an oracle, admire his superior understanding, and never presume to have an opinion of their own.

“This separation from the world is not entirely owing to pride, or an unsocial temper, as it proceeds partly from bad health and a weak constitution; but he may find it an impassable barrier in the road of his ambition,” &c.

We will not extend the extract, but we recommend the perusal of these autograph *Memoirs* to such of our readers as have a curiosity to learn the intrigues of George the Second’s Court at this period, through the medium of an able man, but a rancorous opponent of Pitt, Lyttleton, &c.

The public life of William Pitt may be divided into three great periods.

First. That portion of time, when, as a member of the House of Commons, he opposed the administration of Sir Robert Walpole and his immediate successors, followed by his holding a subordinate station for about nine years.

Secondly. His own administration for about five years.

Thirdly. The residue of his life, during part of which he was an inefficient member of the ministry, and afterwards, although still oppressed by great bodily infirmity, a distinguished and unrivalled advocate of the soundest principles of liberty and justice.

It will be our endeavour, to give a short and impartial view of his conduct and character in each of these relations.

The real strength of the people of England, the effectual power to control their chief magistrate when arbitrary and unconstitutional measures are attempted, were more fully and soberly manifested on the revolution of 1688, than at any antecedent period of their history. It is true, that at that juncture the mass of the people was more excited by religious prejudice, than by a sense of existing political evil; the Roman Catholic religion was looked at with a sort of undefined abhorrence, and the supremacy of the Protestant Church was deemed by them essential to the preservation of their civil rights. Men of a higher order, with

more comprehensive views, thought they foresaw in the course pursued by James, a probable renewal of the melancholy career of Charles I. They trembled at the impending consequences of unbridled despotism on one side, and furious anarchy on the other. Preventive measures became solemn duties. A series of masterly and judicious proceedings compelled an infatuated monarch to retire, without being forcibly expelled, from his throne, and the substitution of his daughter and her husband, warm adherents to the Protestant cause, with a full impression of their ready coincidence in all the great objects of national interest, was rendered a measure of safety, by the Bill of Rights, which formed a compact between the sovereign and his new subjects. From this time we may date an improved character of the House of Commons. No longer, as in the days of Henry VIII. and Elizabeth, crouching slaves; no longer self-created controllers and destroyers of regal power as in the time of Charles I., they became, in form, the regulated but useful depositaries of the power and confidence of the whole mass of the third estate. But a very slight acquaintance with English history will convince us, that, with few exceptions, the House of Commons is the representation only of the wealth, and rank, and aristocratical connexions of that country; and also, that it only forms part of the machinery of executive government. Under the new scheme introduced at the Revolution, it was obvious that all endeavours to awe and intimidate it must be abandoned, and that court influence, and sometimes even pecuniary seduction, were the most convenient modes of securing its necessary co-operation. Hence, on the part of the ministers, "the management of the House of Commons" grew into a public and familiar phrase, and on one of the most dexterous and judicious of their number, this important and sometimes difficult task devolved. But the constant struggles for place and emolument, rather than an attachment to the public good, generated opposition in the House, and in time, what was termed "a systematic opposition," grew into action. Those who were out of place, combined to raise objections to almost every measure of those who were in place, and it was assumed as a maxim, that uniform opposition formed a salutary check on ministerial proceedings. From that time downwards, the character of the opposition cannot be mistaken. No one can be so weak as to fancy that the warm and vehement arguments which we read in the published debates, in favour of popular rights, or in demonstration of the pernicious tendency of ministerial proceedings, had another object than to procure for those who urged them, the power of which they sought to dispossess the ministers.

If we consider the subject on a greater scale, we ought to view the function of a leader of opposition as one of high duty and responsibility. To excite discontent at home, to encourage foreign

enemies and dispirit foreign friends, by serious and repeated condemnations of the measures of their own government, unless such measures be really wrong—cannot be reconciled to the exact principles of patriotism. Those who pursue such a line of conduct, are not less responsible than the ministers who conduct the government itself. If the acts of the latter ought to be seriously weighed by them, so should be the language of the former.

If a great superior mind is found enrolled in the ranks of systematic opposition, we feel a strong inducement to examine his conduct with close attention. When Mr. Pitt, at the age of twenty-seven, first exhibited his extraordinary talents, many of the measures of Walpole's government certainly afforded a fruitful field for severe remark, and it would be gratifying to perceive that he had confined his exertions to those cases. But he seems, even at this early stage, to have struck in with the general mass of the opposition—the Shippens, the Saundersons, the Jekylls, and the Lyttletons. The first speech of any value which is given as coming from him, (for we pass over a short one on the marriage of the Prince of Wales, which is applauded much beyond its merits,) we notice as an instance that measures were then opposed merely because they were the measures of ministers. The nation was alarmed and agitated by reason of the hostile indications on the part of Spain, then considered a formidable power. The ministry had concluded to maintain an army of 17,400 men. The Opposition, who had been incessantly reproaching Sir Robert Walpole with tamely and pusillanimously sacrificing the honour of the nation, objected to this number, and, at a moment when it was all-important that a formidable front should be presented, moved to reduce the number to 12,000; and this weak and injudicious proposition appears to have received the aid of Pitt. The speech on this occasion, which is given to us, exhibits little eloquence and little argument. Our author tells us, that he extracted it from the London Magazine.

It would occupy too much space, to proceed through the whole work, and select those instances in which he must be considered as having acted in the trammels of party, and those in which he may have spoken *ex corde*, from independent conviction that he was right. It is sufficient to say, that in the very next speech which is given to us, when we may fairly believe that he acted from conviction, on the subject of Walpole's dishonourable convention with Spain, we find, though through the medium of a bad reporter, a speech marked by force, fire, and effect.

Mr. Pitt continued these toils and labours, in conjunction with his party, for eleven years. It may be well supposed, that an ingenuous mind would sometimes revolt at the repetition of the same species of labour—at the unremitting efforts to vilify and

condemn—at the cheerless countings of minorities, and the deferred hope of final success; but the warmest admirer of Mr. Pitt can trace, in this early part of his public life, no other governing principle than the pursuit of some distinguished station under the crown. If we seldom find an instance of his relaxing in opposition, or generously declaring his approbation of any measure, however wise or prudent, that emanated from the Walpoles, the Carterets, or the Pelhams, we may safely draw the general inference we have stated; but when, in addition, we find him sometimes waiting upon such a man as the venal Dodington, and caballing with him and others, upon the best mode of displacing those in power, and distributing their offices in case of success, we feel a deep concern at his voluntary degradation.

Dodington, afterwards Lord Melcombe Regis, was a man of talent and polite accomplishments. Although he already possessed a large fortune, yet the combined impulses of avarice and ambition stimulated him to the most unseemly and servile intrigues for office. To court the favour of the Prince of Wales, under the expectation that he would survive his father, he threw up the office of Treasurer of the Navy; and on the premature death of the Prince, he endeavoured either to recover his former standing at the royal court, or, by overthrowing the ministry, to succeed, with his colleagues in opposition, to the possession of their places. His diary, published by Wyndham, contains a narrative of court intrigues, from the year 1749 to 1761. Its authenticity is not to be doubted; and from a passage in Richard Cumberland's entertaining *Memoirs*, it would seem that the author did not wish to conceal from the public eye, this disgraceful portraiture of his own selfishness, venality, and ingratitude. Yet with such a man, we find, the lofty mind of Pitt could frequently hold communion.

The impediments to Pitt's own advancement were great. George II. had conceived a personal aversion to him. The general freedom and asperity of his remarks in the House, did not perhaps exceed those of his fellow-combatants; but when, in addition to other matters, he arraigned with the utmost severity the whole conduct of the war in Germany, condemned the cowardice of the Hanoverians, and pronounced the battle of Dettingen, at which His Majesty was present, to be, not a glorious victory, but merely a fortunate escape,—we may readily conceive the wound inflicted on the feelings of the royal soldier.

During the time of Sir Robert Walpole, Pitt was unsparing and unceasing in hostilities; and it must have been after painful experience of the weight and influence, which, notwithstanding his youth, he had acquired in the House, that the well-known exclamation of the provoked minister was uttered—"We must, at all events, muzzle that terrible cornet of horse." It could not

have been made at the early period assigned by our biographer. Nor is it easy to account for a measure so severe, as depriving a young officer of his commission, by way of punishment for his parliamentary conduct. Yet it is certain that this measure took place at some time during the ministry of Walpole. It was not, however, the way to subdue the spirit of his ardent and intrepid opponent.

A little *jeu d' esprit* of his friend Lyttleton, in which the thought is better than the diction, shows the sense then entertained of this injustice :—

“Long had thy virtues mark'd thee out for fame,
Far, far superior to a Cornet's name;
This gen'rous Walpole saw, and grieved to find
So mean a post disgrace the human mind,
The servile standard from the free-born hand
He took, and bade thee lead the patriot band.”

Mr. Pitt continued the steady enemy of Walpole, until the latter was compelled, by the loss of all his influence in the House, to retire from office. Although he now might be considered as in the grave, the war against him did not cease; and the propositions for inquiry into his past conduct, were keenly and eloquently supported by Mr. Pitt.

The succeeding administration justly dreaded his enmity, and wisely pursued a different course to procure his silence. A subordinate station, without admitting him into the cabinet, was offered and accepted. In 1746, he was appointed paymaster-general. It is matter of surprise, that he who held so glorious a station in the ranks of opposition, whose moving principle was ambition, not avarice, and who subsequently proved himself supremely qualified to direct the government of the nation in its most arduous times, should consent to become a mere satellite to planets of inferior magnitude—should seal his own mouth in respect to measures in which he had taken no part, and which he might not approve—and even occasionally vindicate principles which he had formerly condemned. That avarice could have had no share in this procedure, we may justly affirm, when we find him abstaining from long-established, though indirect emoluments, which no one would have blamed him for receiving. We quote the instances, from the work before us :—

“When Mr. Pitt was first appointed to this office, it was customary that 100,000*l.* should lie, by way of advance, in the Paymaster's hands. This money, in the time of Mr. Pitt's predecessors, was usually vested in government securities, and brought an annual return of 3,000 or 4,000 pounds, which was appropriated by the Paymaster to his private use. It is evident that such a practice, whilst it generally enriched the individual, might, upon particular occasions, either expose him to ruin, or impede the operations of the army, at a time when they were most required. For supposing the money to be thus locked up, and that the public funds bore a considerable discount, it could not be sold without the heaviest loss to the subscriber. Such an emergency actually occurred. In

the midst of the Scotch rebellion—when the very existence of the constitution appeared to depend upon the fidelity of the army, the payment of that army, from such considerations, was stopped!

“The possibility of such a predicament was revolting to the feelings of Mr. Pitt. He instantly placed in the Bank of England every sum belonging to his office, without appropriating a shilling to his private use. He placed the money where he knew it would be at once available to the public service. He subscribed not the minutest portion of it to the funds; he derived not the smallest interest from the capital, but was strictly and conscientiously satisfied with the legal salary annexed to his appointment.

“The second fact is of a similar description, and no less honourable to Mr. Pitt. When the English Parliament granted subsidies to the King of Sardinia and the Queen of Hungary, it was usual even with the most respectable of Mr. Pitt’s predecessors, to receive a profit of one-half per cent. upon the whole subsidy advanced. This was deemed a perquisite of office. Had Mr. Pitt availed himself of this practice, he must soon have realized considerable wealth, for the subsidies at the time were very frequent and considerable. But his noble spirit disdained to profit by any indirect advantage.

‘Far other arts his heart had learned to prize.’

“When the King of Sardinia was informed of Mr. Pitt’s departure from the custom of his predecessors, he expressed his admiration of such greatness of mind, and desired his agent to offer to the Paymaster, as a royal present, that sum which he had before refused as a perquisite of office. Mr. Pitt’s conduct upon this occasion was worthy of a Fabricius. He declined the acceptance of the royal proffer in firm but respectful terms. He alleged, that as Parliament had granted the money for specific purposes, he had no right to the smallest share. It was his duty to pay it entire, and he trusted that he should not offend his Sardinian Majesty by refusing his gift.”

His motive must therefore have been the hope and expectation that this office would prove a step to a higher one, that the King’s personal aversion might gradually be removed, and that he might in time glide into the cabinet. After this appointment, his voice was, for a long time, rarely heard in the House. “He is now (says the biographer) to be considered as a silent spectator of measures when pursued by Newcastle, which under Carteret he had so loudly condemned. We have moreover to consider him as the advocate of several principles to which, before, he seemed decidedly hostile.”

This *purchased* dereliction of old associates and old opinions requires apology, and our author has ingeniously attempted it. That the argument may not suffer in our hands, we shall again give his own words:—

“The charges of political tergiversation against Mr. Pitt, which fall in with this period of my history, are chiefly three; first, his acquiescing in the continental measures pursued by the Duke of Newcastle after Lord Granville had retired from power; secondly, his abandoning the claim of British seamen to an exemption from the search of Spanish guard-ships; thirdly, his defence of the extension of military law.

“Without offering any laboured apology for Mr. Pitt’s change of political sentiments, which he himself was ever foremost to allow, I shall suggest such arguments upon the three charges above-mentioned, as I deem worthy the consideration of every impartial inquirer. I begin with the first charge. Mr. Pitt had in 1746 become a member of an administration, which, however unhappy and unwise in their conduct of the war in Germany, carried into effect many measures most beneficial to Great Britain. So far as the internal interests of the country

were concerned, that administration was eminently useful. Mr. Pelham was a good and honourable man, of great candour and affability of manners, and possessing the greatest influence with his associates in power. It appears from his correspondence, that Mr. Pelham, himself, disapproved of the system which we pursued on the continent, but was unable to prevent it. I have no doubt that his conduct and example upon this point had great weight with Mr. Pitt. When the latter saw that Mr. Pelham, so powerful by his family connexions, and so respected from his known desire to promote the public welfare, was unable to prevent the adoption of those German measures which entailed such expenses upon the country, he must have felt that his own single opposition to them would have been wholly without effect. Mr. Pitt, undoubtedly, possessed the greatest confidence in his own abilities, and looked forward to the time when an introduction to one of the great offices of state would enable him to exert them for the benefit of his country. To continue a single opposition to our continental measures, would have been worse than useless; would have embarrassed the general operations of government, and for ever have excluded him from any high official employment. Under these impressions, probably, he was induced to forbear the expression of his sentiments, and for the sake of the general harmony of administration, to forego an opposition to those measures which he found himself unable to overthrow.

"I shall now consider the second charge of inconsistency. I believe that every impartial inquirer must admire and applaud Mr. Pitt's noble defence of the freedom of British navigation against the aggressions of the Spaniards, in the latter years of Sir Robert Walpole's administration, and will agree with me in thinking that a war was, at that time, as expedient as it was just. A most important question was at issue, and to decide that question, when every other effort had been tried, the nation had recourse to arms. Unhappily, however, the war with Spain had been so weakly conducted, and the efforts of the nation so much diverted and exhausted upon other and unnecessary points, that at the end of a nine years' struggle we found ourselves utterly unable to enforce the great point in dispute. Under such circumstances, what was it the duty of a wise senator to advise? In my opinion, it was peace with Spain. The justice of our claims, indeed, remained the same, but our inability to assert those claims had been wofully proved, and the continuation of the war, which originated in justice and expediency in 1739, would, in 1748, have been obstinate and dangerous in the extreme.

"As to the third charge of inconsistency, I think the occurrence of certain events was calculated to produce a change of opinion, with respect to the necessity of a military establishment, in the freest and firmest mind. Accordingly, the extreme consternation into which the country had been thrown by the invasion of the young Pretender, the utter inadequacy of the militia to resist the rebels, and the intense anxiety with which our troops had been expected from Germany to protect us, made a lasting impression on Mr. Pitt. He was thence induced to infer, that, if the Pretender, with an inconsiderable and undisciplined body of men, and those too at variance amongst themselves, was able to penetrate very far into the country, and to endanger the safety of the capital itself, the successful invasion of a regular French army could at no time be prevented but by the constant existence of a strong military force.

"Several other allegations of inconsistency have been made against the conduct of Mr. Pitt, but they cannot well be resolved into a change of opinion as to *things*, but, probably, arose out of some misunderstanding with *persons*, from which scarcely any public character has the happiness to be exempted. Of this description was his conduct towards the Prince of Wales. It will be remembered that Mr. Pitt first displayed his powers as an orator in a lofty panegyric upon his Royal Highness. He was subsequently appointed groom of the bed-chamber to the Prince. He resigned that situation towards the close of the year 1744. Although I have made diligent inquiry to ascertain the fact, I am unable to state upon what grounds he adopted this measure. Horace Walpole charged him with ingratitude to the Prince, but as he has not even pretended to substantiate his assertion, it may reasonably be considered as one of the many uncharitable surmises which disgrace his page."

Of the sufficiency of this vindication, we leave our readers to judge.

Avoiding minute details, which would occupy too much of the space allotted to this article, and willing to leave the dark side of the picture as speedily as possible, we have only to say, that he held this office, and pursued this conduct, with little variation, for nine years. Towards the close of the year 1755, when the imbecility of the Duke of Newcastle had reduced the nation to a state of alarming difficulty and distress, the King became convinced of the necessity of forming a new administration, but without intending to relinquish his favourite measure,—the prosecution of the war on the continent, with the main view of protecting his Hanoverian dominions. This predilection of the princes of the Brunswick line, for a paltry province in Germany, the entire population of which is not equal to that of the city of London, was a heavy part of the consideration given for the acquisition of a Protestant prince. The way now appeared open to the ambition of Pitt; and it might have been with the view to revive impressions which his long inertness had rendered somewhat faint and indistinct, that he again caused the walls of St. Stephen's to resound with the thunders of his eloquence. But Fox (afterwards Lord Holland) and Pitt were rivals, and the latter refused to act with the former. Fox was successful; and one of the first acts after he received the seals, was the dismissal of Mr. Pitt from the office of paymaster. With apparent reluctance, Pitt accepted a pension of £1000 per annum. But his new course of proceeding was not affected by it; and Fox, if he calculated on again buying silence, found himself mistaken. The invectives of Opposition were supported by the injudicious or unfortunate measures of the administration; and Mr. Fox, after a second refusal of Mr. Pitt "to act with him as a minister," and the Duke of Newcastle, after a similar refusal from the same quarter, suddenly threw up their employments. There was now no alternative. Pitt was made Secretary of State, and became the efficient and predominant leader of a cabinet, which soon raised the nation to greater glory than it had lost, and rendered it for five years the admiration and the terror of Europe.

This is the noblest portion of the life of William Pitt. It exhibits the strongest proof of his masterly intellect, his perfect disinterestedness, his entire devotion to his country's cause; and if we find him yielding to his sovereign's desire to prosecute the continental war, we may observe, in addition to the arguments of the biographer already introduced, that under the peculiar constitution of that country, the refusal of the legislative power to co-operate with the executive, must almost always be productive of injury to the nation. But the abilities of this extraordinary man, enabled him to effect what his predecessors, if they con-

ceived it, never accomplished. While he continued the war on the continent of Europe, his penetrating eye extended to every quarter of the globe, his comprehensive mind combined every mode of aggression or defence, and he found the means to effectuate almost all that he designed. Of his vast aims, of his judicious selection of agents to execute them, of the almost uniform success that attended them, no one who has read the history of England can be ignorant. That history, from 1756 to 1761, is the history of the life of Pitt. It is not, however, improper to notice, that during two months of this period (but two months marked by no other important incident,) Mr. Pitt was out of place. His contempt of the Duke of Newcastle, in which indeed a great part of the nation concurred, occasioned him, on the formation of the Cabinet, to refuse to act with him. But Newcastle, whose rank and fortune gave him an influence which his talents could not procure, continued his intrigues with a view of recovering his station; and Mr. Pitt had been only five months in office, when he was required by the King to resign. The people, the nation, were clamorous for his return; the monarch insisted on the introduction of the Duke, and Lord Chesterfield had the credit of effecting a union, after a short interval of secession and confusion. Here again, we find this apparently inflexible man yielding to circumstances, and submitting, against his own judgment, to have a colleague whom he could neither respect nor trust. But he well knew the ascendancy which strong minds must always have over the weak, and the Duke became a slender and despised impediment to the prosecution of Pitt's magnificent conceptions.

His predominance in the cabinet of George II., seems to have been uninterrupted; and whatever there was of good or of evil in the plans and conduct of the war, was to be attributed to William Pitt. Internal regulations and financial concerns were devolved upon his colleagues. When that aged monarch left a resplendent and triumphant crown to his grandson, the cabinet for some time remained unchanged. It was believed, however, that there was a secret counsellor behind the throne, whose influence exceeded that of the ostensible minister; and Lord Bute, an elegant and accomplished Scotchman, was openly charged, in the publications of the day, with holding that invidious office. This nobleman, unfortunate as a statesman, and little admired as a man, had been in an office about the King's person while Prince of Wales, and was admitted a member of the cabinet when the latter succeeded to the throne. But until the petulant resignation of the Duke of Newcastle, Lord Bute held none of the high offices. When the Duke resigned because he could not procure the subsidy to the King of Prussia to be continued, Lord Bute was appointed first Lord of the Treasury in his room. But before this office was

conferred on him, the power and influence that Pitt possessed in it began to abate, and on their refusal to unite in an immediate rupture with Spain, which it was admitted had given just cause for war, he indignantly and unexpectedly resigned. The young King received the seals from him, with many kind expressions; a pension of £3000 per annum was settled on him; and his wife was created Baroness of Chatham, with remainder to her issue.

Both the resignation and the pension, excited surprise and murmurs. Pitt, who duly valued the preservation of his popularity, thought it expedient to address an explanatory letter to one of the public officers of the city of London, and received an answer; part of which contains so just a summary of the merits of his administration, that we are induced to lay it before our readers:—

“The City of London, as long as they have any memory, cannot forget that you accepted the seals, when this nation was in the most deplorable circumstances to which any country can be reduced; that our armies were beaten, our navy inactive, our trade exposed to the enemy, our credit, as if we expected to become bankrupts, sunk to the lowest pitch; that there was nothing to be found but despondency at home, and contempt abroad. The City must also for ever remember, that when you resigned the seals, our armies and navies were victorious, our trade secure, and flourishing more than in a peace, our public credit restored, and people readier to lend, than ministers to borrow: that there was nothing but exultation at home, confusion and despair among our enemies, amazement and veneration among all neutral nations: that the French were reduced so low as to sue for a peace, which we, from humanity, were willing to grant, though their haughtiness was too great, and our successes too many, for any terms to be agreed on.”

Mr. Pitt now returned for a time to the ranks of opposition. He arraigned the terms of the peace, which Lord Bute, after war had been declared and successfully carried on against Spain, had somewhat hastily, but, as he alleged, not inconsiderately, made with both the houses of Bourbon; he supported the privileges of members of the House in the case of Mr. Wilkes; he denied the legality of general warrants, admitting that he had twice issued them with a knowledge (after consulting the attorney general in one case) of their illegality, and that he had been prepared to meet the consequences. But questions of greater magnitude soon arose to call forth all his powers, and to display his sound and serious opinions.

The reader will at once recall to mind, the unjust attempts of the ministry to impose internal taxes on the American colonies. The Stamp Act was brought forward and passed, when Pitt was confined to his bed. The biographer states, that “General Conway was single in denying the right of taxation by Parliament.” When the ministry found that this scheme, as injudicious as it was unjust, could not be enforced, they themselves proposed and promoted the repeal of it. Mr. Pitt’s celebrated speech on this occasion, is given at length by our author; and it is probable that

it is as faithfully reported as any one of those contained in the book. One emphatic sentence rung from one end of our continent to the other—"I rejoice that America has resisted. Three millions of people, so dead to all the feelings of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest."

Although an abridgment of this speech might give some satisfaction to our readers, we abstain from it, because, with all its excellence, it is too deficient in method to render an abridgment very practicable. The Stamp Act was repealed, accompanied by an absurd declaratory Act, which excited, not the fears, but the ridicule of those at whom it was aimed. All men now perceived that a new administration had become necessary. The formation of one intended to possess more firmness, intelligence, and consistency, than that which retired, was confided by the sovereign to Mr. Pitt; but his popularity was not increased by his mode of executing this power. The Duke of Grafton, who professed for Mr. Pitt an unbounded veneration, was placed at the head of the Treasury, Lord Temple, once a most intimate and trusted friend, was refused admission, except on terms which he could not comply with; and the title of Earl of Chatham, with the office of Lord Privy Seal, was conferred on a man, who, for thirty years, had shone with a splendour superior to any factitious rank which it was in the power of his sovereign to confer.

The Marquis of Rockingham and Lord Temple, thus excluded from power, were popular, and regretted by a great proportion of the nation; and the new peer was evidently less admired and respected than the great commoner.

With his characteristic energy, he had proposed, almost immediately after the formation of this administration, the bold measure of laying an embargo, by the mere power of the crown, to prevent the exportation of corn, the scarcity of which had produced great distress; and in his place in the House of Lords, while he admitted the illegality, he justified the measure on the score of necessity. A bill to indemnify the inferior agents was brought in by the ministry, and received the sanction of the three branches of the legislature. But we mean not to enter into the details of English history, further than is necessary to elucidate the peculiar features of his character.

Pitt was a living and illustrious instance of the superiority of mind over matter. He was afflicted by the gout before he left college; as he advanced in life the disease increased on him; he was frequently confined to his bed or his chamber, under excruciating torments, and yet his genius, vivid, unimpaired and unwearied, never flagged in its functions. Before he was in office, he enjoyed the right of a private man, to act or to repose as might best suit the state of his health; but in the highest public station,

when a nation's fame and fortune hung upon him, there was no moment to withdraw for the purpose of repairing his bodily infirmities, or endeavouring to alleviate his pains. The magnitude of the exertion was, however, only in proportion to the magnitude of the cause. His powers rose as the difficulties around him increased, and the anxieties of the mind subdued all sense of the griefs of the body. But in quiet times, when there was little to excite or to alarm, the morbid paroxysm was allowed to restrain him from the inferior and mechanical duties of office; and in this new station, when bodily disease was not counteracted by high mental exertion, it fearfully increased upon him, till life itself being threatened, he finally relinquished his nominal connexion with the cabinet. A temporary improvement in his health, enabled him afterwards to resume his seat, and occasionally to raise his voice in the House of Lords, on some of those interesting questions which were presented during the ministry of Lord North. Passing over his energetic orations in the affair of Mr. Wilkes, the King's answer to the address of the city of London, the Falkland Islands, and other subjects of the day, we shall confine our attention to the part he took in respect to American affairs.

In May 1774, his powerful voice was again heard in the House of Lords, on this momentous subject. It was on the bill for quartering soldiers in America. He charged the ministry with purposely irritating the colonists.—“My lords, I am an old man, and I would advise the noble lords in office, to adopt a more gentle mode of governing America; for the day is not far distant, when America may vie with these kingdoms, not only in arms, but in arts also:”—a prophecy which, at that time, probably excited the smiles of those to whom it was addressed.

In the beginning of 1778, an unauthorized and ill-managed negotiation by two humble friends of Lord Bute and Lord Chatham, drew from the latter a declaration in regard to “the impending ruin of the kingdom.” “He feared that all hope was precluded; but zeal, duty, and obedience, may outlive hope. If any thing can prevent the consummation of public ruin, it can only be new counsels and new counsellors, without further loss of time—a real change from a sincere conviction of past errors, and not a mere palliation, which must prove fruitless.” This was a plain indication of his willingness to undertake the conduct of public affairs, at a gloomy and appalling crisis; but it soon appeared that Doctor Addington and Sir James Wright were acting without authority, and Lord Chatham subsequently made use of strong terms to express his indignation.

With all his liberal principles on the subject of taxation, while he declared that he would carry with him to his grave “the unalterable opinion, that this country had no right under heaven to

tax America," he sternly and invariably maintained the superiority of the parent country, in every other respect. In the same speech, he forcibly observes, that—

"Instead of adding to their miseries, as the bill now before you most undoubtedly does, adopt some lenient measures, which may lure them to their duty; proceed like a kind and affectionate parent over a child whom he tenderly loves; and, instead of those harsh and severe proceedings, pass an amnesty on all their youthful errors; clasp them once more in your fond and affectionate arms; and, I will venture to affirm, you will find them children worthy of their sire. But should their turbulence exist after your proffered terms of forgiveness, which I hope and expect this House will immediately adopt, I will be among the foremost of your Lordships to move for such measures as will effectually prevent a future relapse, and make them feel what it is to provoke a fond and forgiving parent! a parent, my Lords, whose welfare has ever been my greatest and most pleasing consolation. This declaration may seem unnecessary; but I will venture to declare, the period is not far distant, when she will want the assistance of her most distant friends."

And on another occasion, in the year 1775, his declarations in this respect were still more explicit:—

"No regard for popularity—no predilection for my country—not the high esteem I entertain for America, on the one hand, nor the unalterable, steady regard I entertain for the dignity of Great Britain, on the other, shall at all influence my conduct; for, although I love the Americans, as men prizing and setting a just value on that inestimable blessing, Liberty, yet, if I could once persuade myself that they entertain the most distant intention of throwing off the legislative supremacy and great constitutional superintending power and control of the British Legislature, I should myself be the very person who would first, and most zealously, move to secure and enforce that power, by every exertion this country is capable of making."

We, in this country, who know how reluctantly that allegiance was thrown off; who cannot read our own history without the full conviction, that independence was a measure of necessity to which we were driven by the despair of any other mode of relief; must still concede, that the lofty mind of Chatham might well adhere with pertinacity and warmth, to the preservation of the integrity of an empire, which he had done so much to ennoble and enlarge. The avowed fidelity of a British subject, might enhance the arguments of an enlightened statesman; but in 1778, after the reduction of the colonies had manifestly become impossible, when we hear him, in what proved his dying speech, vehemently declare, that he "never will consent to deprive the royal offspring of the House of Brunswick of their fairest inheritance," we recognise and admire the inflexibility of his spirit, but we cannot admit the soundness of his judgment. The interposition of the French had raised his anger. This "great nation" was not to fall prostrate before the House of Bourbon. "Shall a people, that seventeen years ago was the terror of the world, now stoop so low as to tell its inveterate foe, take all we have, only give us peace?"

After the Duke of Richmond, who brought the question forward, had answered these remarks, Chatham endeavoured to rise

in reply; but he fell down in convulsions, was taken home, and in a few days afterwards expired. America remembered his virtues, suppressed all resentment for his opposition to her independence, and deplored his loss.

On the merits of Lord Chatham as an orator, the author was of course bound to give his opinion; and as it is not much protracted, we insert it at length:—

“Having said thus much of Lord Chatham’s character as a statesman, I come now to consider him as an orator. And here the same description applies. His eloquence was peculiar, distinct, and unrivalled. Occasionally wild and extravagant, it was at all times bold, nervous, and impassioned. Many speakers have surpassed him in smoothness of expression, correctness of language, and subtlety of argument; but none, perhaps, ever obtained such an ascendancy over his hearers. He possessed a species of oratory, by which he was wont to strike his adversaries dumb, and against which no arguments could avail. Upon many eminent occasions, his sentences were delivered with the most remarkable emphasis, and are said to have produced a thrill of astonishment throughout the House, accompanied by the stillest silence. Lord Chatham was one of the many speakers who indulged in political prophecy—he was one of the very few who realized his predictions. But, great and peculiar as were his excellencies as an orator, the very nature of his eloquence sometimes hurried him into culpable excesses. There is a violence of expression in some of his speeches, incompatible with that respect which he himself was in general foremost to acknowledge should be observed towards the crown.”

He adds quotations from Boyd, and from the second Lord Lyttleton. There is, however, much reason to believe, that the *manner* of the speaker produced half the impression that was made. Whether the speeches were always faithfully *reported*, may be doubted: reporting was not in those days a regular art, as it has now become. When his contemporary Fox, or when Lord Charlemont, casually give to their correspondents specimens of his eloquence, we may probably form correct ideas of it. Perhaps our countryman Quincy, if his *Memoirs* had been known to our author, would have been quoted: in one of his letters, there is a most animated description of Lord Chatham’s manner, and a report of his speech on the 20th of January 1775. But Mr. Thackeray is so ignorant of American literature, that he is surprised we have produced nothing since the Revolution, except the *Sketch Book* of Washington Irving! From Guthrie, and the other aids of the magazines of the day, we derive little satisfaction. Dr. Johnson’s *Debates* in the Senate of Lilliput, were an imposition on the public. He avowed to his friends, that he did not hear what he professed to report. Persons were employed by Cave, the editor of the *Gentleman’s Magazine*, to convey to Johnson the speeches that had been delivered; and he worked them up into a monotonous elevation of language, without discrimination of character. Much was unavoidably factitious. It is almost impossible that “old Horace Walpole” could so forgive the beautiful but *mordant* reply of Pitt to the charge of theatri-

cal gestures, &c., as to be, at least very soon afterwards, the social personal friend of Pitt.

For ourselves, we hazard the opinion, that the speeches given to us are deficient in dialectic and in method; there is seldom any attempt at close argument. The *forte* of the orator seems to have lain in strong assertion or positive negation; in a luminous exposition of principles, and in a happy adaptation of clear and elegant diction to the subject treated. Yet, copious as was his treasure of words, and great as was his industry, we cannot believe that "he had twice read Bailey's Dictionary from beginning to end." It is believed that he did not at any time publish, or even revise, any of his speeches.

In the amusing Reminiscences of Mr. Butler, we find a circumstance related, which indicates that the younger Pitt had not a very high opinion of his father's eloquence. He judged, perhaps, through the imperfect medium of the reporters we have alluded to; and yet, as the son was born in 1759, it seems improbable that he should never have been present on any of those occasions which attracted his father, on crutches and wrapped in flannel, to the legislative chamber.

After mentioning some instances of the great and even oppressive ascendancy which was maintained by him in the House of Commons, Mr. Butler says, that "a gentleman mentioned the two last circumstances to the late Mr. Pitt. The minister observed, that they were proofs of his father's ascendancy in the House, but that *no specimens remained of the eloquence by which that ascendancy was procured*. The gentleman recommended to him to read slowly his father's speeches for the repeal of the Stamp Act, and while he repeated them, to bring to his mind, as well as he could, the figure, the look, and the voice, with which his father might be supposed to have pronounced them. Mr. Pitt did so, and admitted the probable effect of the speech thus delivered."

We terminate this part of our subject, with the neat remark of Dr. Franklin, in a letter to Lord Stanhope:—"Dr. F. has seen, in the course of life, sometimes eloquence without wisdom, and often wisdom without eloquence; but in the present instance, he sees both united, and both in the highest degree possible."

Of his amusements or employments in private life, the biographer gives us little account. We learn, however, that—

"All his pursuits, even in the hours of relaxation, bore the stamp of dignity and grace. Whether he entertained his friends by occasionally reading to them the finest passages of the immortal Shakspeare,* or whether he occupied him-

* "Lord Chatham was an extremely fine reader of tragedy; and a lady of rank and taste, now living, declares with what satisfaction she has heard him read some of Shakspeare's historical plays, particularly those of Henry the Fourth and Fifth. She, however, uniformly observed, that when he came to the comic or buffoon parts of those plays, he always gave the book to one of his relations, and when they were gone through, he took the book again."—*Seward's Anecdotes—Lord Chatham*.

self in projecting and executing alterations in his grounds, all bespoke the man of high spirit, taste, and genius.”*

We have already noticed his affectionate attachments to his family; but there seems reason to believe, that his friendships, out of a very narrow circle, though ardent, were unsteady. His rupture with Lord Temple may, however, be considered as a proof of his postponing all other considerations to what he deemed the public good. A sincere reconciliation afterwards took place. But whatever may be the slight blots upon a character too singular and too exalted to be measured by common rules, his funeral was consecrated by a nation's sorrow, and his weeping relatives received all the consolation that could proceed from the fullest extent of obituary magnificence.

ART. VI.—*Travels and Adventures in Southern Africa. By GEORGE THOMPSON, Esq. eight years a resident at the Cape. Comprising a View of the present state of the Cape Colony, with Observations on the progress and prospects of the British Emigrants.* 4to. London: 1827.

THE author of this work appears to be a plain, sensible, and well-meaning man. His views and connexions were of a mercantile nature; and the two expeditions which he has recently made, are avowed by him to have been principally in reference to considerations of this kind. But he proposed to himself to embrace other objects, and to observe and delineate the moral character, the habits, and political relations of the people, whether natives or emigrants, in the countries which he was to visit. He disclaims scientific researches, professing a want of that education which might qualify him to vie with Sparrman, Vailant, and Birchell—but, in our opinion, rather underrating the information we have received from these writers, which is not, as he intimates, confined to natural history. On Barrow's more comprehensive work, he bestows the praise it deserves; and he honestly acknowledges the merits of Lichtenstein, whose book,

* “His taste in laying out his grounds was exquisite. One scene in the gardens of South Lodge, in Enfield Chase (which was designed by him), that of the Temple of Pan and its accompaniments, is mentioned by Mr. Whately, in his ‘Observations on Modern Gardening,’ as one of the happiest efforts of well-directed and appropriate decoration.”—*Seward's Anecdotes.*

“It is pleasing to reflect that Mr. Pitt did not relinquish his fondness for these elegant recreations, even when the weightiest affairs of the nation were committed to his care. ‘He was once, whilst he was Secretary of State, directing the improvements in the grounds of a friend near London, and was called to that city sooner than he expected, upon the arrival of some important despatches. On receiving the summons in the evening, he immediately sallied out, attended by all the servants he could get together with lanterns, and planted stakes in the different places for which he intended clumps and trees.’”—*Seward's Anecdotes.*

“Mr. Hayley, in the Memoirs lately published, mentions the admirable taste of Lord Chatham in selecting points of picturesque scenery.”

on its first appearance, was most contemptuously treated in an English Review. Mr. Thompson's own graphic powers are considerable, and his whole style and manner leave us under the impression that theory and imagination are nowhere substituted for fact. We perceive nothing in his *Travels* of that harshness, intolerance, and self-conceit, which sometimes, although attempted to be concealed, produce disgust in the mind of the reader. On the contrary, we feel, as we proceed with him, the sensation of being in company with a mild, good-tempered, and practical man, well calculated to win his way among uncivilized people; and we applaud the patience and perseverance with which he surmounted so many difficulties, in his courses through sterile and dangerous regions.

His apparatus for the whole of his enterprises, when compared with that of most of his predecessors, seems to have been so small, that we are led, at first, to wonder at his temerity; but a few years, under the British government, have produced such changes in the general character of the country, as to threaten much less danger even to him who proposes very distant journeys; and the event fully justified his own calculation of the adequacy of the means on which he relied.

The Cape Colony may now be considered as a permanent part of the British Empire; always subject, however, as we have elsewhere observed, to the natural result of its hereafter becoming very populous and very powerful, when provincial subjection will be lost in the formation of an independent state. In this respect, we may consider Great Britain as an organ, under Providence, for the increase of the numbers and the gradual establishment of new associations of mankind. Her *Australia*, her *New-Zealand*, and her *Cape*, will in time become states, with all the advantages of European knowledge, and, according to circumstances, be more or less friendly to their mother country. If violence and injustice produce a disruption, political friendships will be suspended, if not destroyed; and other ancient nations may derive advantages at the expense of Great Britain. It may however happen, that by amicable separation, the early amities may survive, and, with the continued influence of Britain, her effective power may not be diminished. On all such subjects, imagination may be indulged in reference to the great expense with which British colonies are founded and supported, and the ardour with which the system is, by her alone, pursued. Her immediate objects are manifold—to extend her commerce, to increase the vents of her own manufactures, to occupy a portion of her ships, and keep her naval power in public exhibition; to transport her convicts, and recently to assist the emigrations of part of her redundant population. The latter view, chiefly, led her to form the Colony at the Cape of Good Hope. Great difficulties,

principally resulting from the soil and climate, for a long time retarded the success of these establishments. But, as fellow-beings, we are pleased to find from our author, that the sufferings of the new colonists are at an end; and that the settlements are generally in a prosperous condition. Their difficulties in the outset, which are briefly and in general terms described by the author, will form a proper introduction to his subsequent accounts and observations:—

“The continued failure of the crops, for three successive seasons, had at length exhausted the funds of the great majority. Their capital, with the exception of such part as had been invested in buildings and live stock, had entirely melted away. Instead of having been able to bring any surplus produce to market, they had been obliged to purchase bread corn for the subsistence of their families. Even those who possessed the best resources began to be subjected to great privations, and many were already reduced to absolute destitution.

“These were the agriculturists:—they had all suffered more or less, but their condition was almost as various as had been their former pursuits. There were among them a considerable number of gentlemen who had served in the army and navy,—some of whom still retained their half-pay, while others had sold their commissions in order to realize funds to commence farming. This class (with a very few exceptions) consisted of men of education, intelligence, and good character. There were besides these a considerable number of highly respectable families, some of whom had in England moved in circles superior even to middle life, but who had now exhausted their entire resources in this enterprise. Below these were farmers, shopkeepers, manufacturers, &c. who, apprehending the entire loss of their property from the pressure of evil times at home, had embarked it in the emigration, only to see it wrecked in Africa. Such were the classes of emigrants who had been by far the severest, if not the exclusive sufferers, by the failure of the scheme and the destruction of the crops.

“The lower ranks, consisting of common mechanics and labourers, were spoiled, from the time of the very first location, by the indiscriminate issue of rations without the control of the masters; and most of them, as has been already remarked, soon found means to obtain their discharge. The great demand for labour, and the high wages given by the Government contractors, and others, who were erecting buildings at Graham's Town, attracted thither great numbers of this class; and all of them who were industrious earned a competent livelihood, and many saved money and built houses for themselves; so that that village, a mere hamlet in 1820, rose rapidly in importance. It now contains about one-half of the emigrants originally located in the district, and is (in population at least) the second town in the Colony.

“From this hasty retrospect, it will be seen that it was almost exclusively upon the upper and middling classes that the severe pressure fell; and while the majority of the labourers and mechanics had improved their situation, and were receiving high wages, and rising to independence, their former masters were generally involved in difficulties, and rapidly sinking to indigence. Many families were, in fact, long before the period I now refer to, reduced to great distress; and there existed little or no prospect of any effectual relief for them. They naturally clung to their locations; for, unimportant and unproductive as these were, they were all that remained to them of property. Many, too, were willing to labour, and did labour most assiduously on their own premises, whose former stations and habits of life prevented them from working for hire, or becoming the dependants of others. There were doubtless *some* individuals who clamoured loudly, and even exaggerated their privations, in order to raise contributions, by exciting the commiseration of the public:—there were individuals at once prodigal and mean, idle and importunate:—but the great majority of the classes I refer to, evinced a different spirit. Great privation was patiently endured by a numerous and highly respectable body of people, who concealed in the retirement of their cottages the destitution they were reduced to,—who were “unable

to dig, and to beg were ashamed." Some distressing cases of this kind have been made known, but many more, and perhaps the most severe, have been carefully hidden even from the eye of philanthropy. In a country where butcher's meat is so cheap, that even during a scarcity it has seldom exceeded three halfpence per pound, and where, though the crops were totally destroyed, milk and vegetables have seldom been altogether wanting, very great distress for absolute want of food could not well prevail long or extensively. But to those who had all their lives been accustomed to English comfort, there existed many wants besides the want of food, and there might be much suffering short of actual famine."

These distresses of the settlers were forcibly represented at home; and a subscription amounting to £7000 sterling, with a quantity of clothing, was speedily raised and transmitted. With a small addition from some of the inhabitants of the colony itself, a distribution of the supply among the impoverished and needy was promptly and judiciously made, since which, says our author, "the situation of the settlement has gradually improved. Comfort, credit, and confidence, were restored to a numerous and respectable class of people, who were depressed and degraded by debt and destitution. Other favourable circumstances conspired to renew the spirit of industry and enterprise, which had almost given place to despair."

He admits that the "*rust*" has not yet ceased to ravage their wheat crops, "but barley, maize, potatoes, pumpkins, and other vegetables, are now plentiful in the district; and the funds put into their hands, have enabled most of the settlers who now occupy the lands to place large herds of cattle on the pastures."

The author proceeds to give his own suggestions, as to the best modes of encouraging and supporting future emigrations; and ends with a comparison of the advantages which a South African settler possesses over those of other countries, including our own; in which, as we presume no citizen of the United States is likely to migrate to the Cape of Good Hope, we deem it needless to follow him.

But, however suitable for agricultural purposes a great part of the territory now belonging to the British government may be, he admits that nearly two-thirds of its entire surface consist of vast ranges of sterile mountains, and dreary wastes, which no efforts of human industry can render available to civilized man, and which refuse even drink and pasture to the herds. Yet he conceives that within its present boundaries, it would afford ample means of a secure and plentiful subsistence to at least five times its present population, which he estimates at 120,000, including about 30,000 Hottentots. The white population consists of the old Dutch settler, now, with all his phlegm and good-natured indolence, reduced or elevated, as his own opinion may be, to the rank of a British subject; and of those Englishmen, whom official duties, commercial pursuits, or agricultural enterprise, have led to the same quarter.

Mr. Thompson assures us, that the habits and customs of the Dutch in Cape Town are becoming every day "*more* decidedly English." And this is probable and natural. Although the same despotic power which was formerly held by the Dutch governors is at an end, yet the possession of a moderated authority will of course produce influence, and lead to such fashions of conduct as may be deemed acceptable to those who govern. The view of the superior comforts, and perhaps more polished manners, of their English neighbours, must also have a gradual effect on social intercourse. But the Dutch farmer, who (not disrespectfully) is termed the *Boor*, seems to remain unaltered. Seated individually on large tracts of land, frequently of four, five, or six thousand acres—secluded from all but occasional and unfrequent intercourse with the English settler—revelling in the enjoyment of coarse and abundant food, derived from his own flocks and herds, without vegetable varieties in his diet—he follows the beaten track of his ancestors, and knows and cares nothing about the culture of his mind. Yet the Boors are generally kind and hospitable to travellers; and many instances are given, as well in this book as in the others to which we have referred, of friendly welcome and assistance, when these were really wanted. The hand was not the less warm because it was hard and dirty, and hunger was not less amply appeased because the substantial meal was without the condiments of foreign luxury.

Of the original inhabitants of the country included within the limits of the colony, the Hottentots, so numerous in the time of Kolben, are now reduced to the small number already mentioned, and are chiefly in the condition of dependents on the White Inhabitants. One small farm, occupied by a Hottentot, is mentioned as a rare instance, with a benevolent wish that more such could be found. It is stated to be the only case in which a grant of land in any part of the country has been made to a Hottentot. The author visited the little secluded spot, consisting of only fifty-four acres, and speaks favourably of the improvements. But even of this slender establishment, the native was, at one time, in danger of being deprived. He had been permitted by the deputy *Landdrost* to occupy this wild place, which no *boor* thought worth the asking for, when, upon the arrival of the settlers (we presume the English settlers, as we observe the distinctive appellations of Boors and Settlers are preserved throughout,) he was warned to evacuate it, in order that it might be added to their location; and he would have been thus unceremoniously dispossessed, if the Colonial Government, on a representation of the case, had not interfered, and made him a grant of the land on a perpetual quit-rent.

We shall now proceed to accompany our author through some

parts of his tours, which, as he advanced beyond the habitations of civilized man, became at times quite interesting.

His first journey commenced in April 1823—when he proceeded to, and passed through the British settlements on the Eastern Coast—from which he struck off in a northerly direction towards the Gariiep river.

The difference between the present and the former condition of this part of the country, is shortly described:—

“Passed the location of the late General Campbell, (one of the heads of the settlers,) which is now occupied by his widow, an elegant and accomplished lady. The natural features of the country are here exceedingly beautiful, and Mrs. Campbell’s neatly ornamented cottage, though constructed only of wattle and plaster, had a most pleasing and picturesque appearance, surrounded by luxuriant woods and copses of evergreens, in the disposal of which the wanton hand of Nature seemed to have rivalled the most tasteful efforts of art.

“As I travelled through this rich and smiling scene, now enlivened by the dwellings and improvements of civilized man, and saw the flocks of sheep pasturing on the soft green hills, while the foaming surge broke along the beach on my right hand, I could not help recalling to mind the fate of the Grosvenor’s shipwrecked crew, who traversed this beautiful country in other times and far different circumstances. It was not far from this very spot that the poor boy, Law, after surmounting incredible hardships, lay down to sleep upon a rock, and was found dead in the morning. At that time, the boundary of the Colony extended only to Algoa Bay, and the wretched wanderers had still innumerable toils and perils to endure, before they could reach the residence of Christians,—and but few survived indeed to reach them. A skeleton, which was lately found by my friend Mr. Thornhill, in one of the sand-banks, a few miles farther to the eastward, in a sitting posture, may not improbably be the remains of one of those unfortunate wanderers; for many instances are related, in the journal of the survivors, of individuals exhausted with hunger and fatigue, sitting down to rise no more; and a corpse left in such a situation, would be covered up by the drifting of the sand in a few hours, if the wind happened to blow strong from the south-east.”

Of the village of Graaff-Reinet, he gives the following account, the concluding part of which merits the attention of our fellow-citizens, now so largely engaged in internal improvements:—

“I spent these four days in Graaff-Reinet. This place is wonderfully improved since the days of Barrow, when it consisted merely of a few miserable mud and straw huts. It contains now about three hundred houses, almost all of which are neat and commodious brick edifices;—many are elegant. The streets are wide, laid out at right angles, and planted with rows of lemon and orange trees, which thrive here luxuriantly, and give to the place a fresh and pleasing appearance. Each house has a large allotment of ground behind it, extending in some instances to several acres, which is richly cultivated, divided by quince, lemon, or pomegranate hedges, and laid out in orchards, gardens, and vineyards. These are all watered by a canal from the Sunday River, which branches out into a number of small channels, and each inhabitant receives his due portion at a regular hour. This canal has been greatly improved, or rather constructed anew, on a much higher level, by the present Landdrost, who, by indefatigable exertion and entirely at his own risk, has carried it along the front of a rocky precipice, and by these means gained a large addition of arable ground, and a more certain and abundant supply of water. I was not a little surprised to find that this arduous task had been accomplished, without even the aid of blowing irons or gunpowder, merely by kindling large fires upon the rocks, and when they were well heated, dashing buckets of water upon them. By this simple process, immense blocks had been split, and rolled from the path of the water-course.

This useful work, so essential to the prosperity of the town, was effected almost entirely by the labour of the convicted felons of the district, under the immediate superintendence of the Landdrost."

After passing Graaff-Reinet, he entered upon a dreary country, partially inhabited by the boors, but destitute of wood. On leaving the banks of the Sandy river, he did not for a great distance see a tree, nor "even a bush large enough to supply a walking stick." Timber for building is brought from a distance of forty miles. In consequence of this, and of the wild and wandering life that most of them lead, the dwellings of the boors are extremely small, and chiefly occupied as deposits of their valuable articles. Many, however, are destitute even of huts, and live entirely in wagons; yet, notwithstanding these privations, some of those men possess 10,000 sheep and goats, and 1200 or 1500 head of cattle. Similar scenes occurred in other places. But he found these people almost uniformly kind and hospitable, although their manners, as might be supposed, were in a high degree unpolished and rude.

One great evil in this country is the class of aborigines, denominated Boschmen, or, as pronounced, and now generally written, Bushmen. There is no doubt that they are descendants of the unhappy Hottentots, who surrendered their country to the Dutch, and gradually retired, for refuge from their cruelties and oppressions, to the desert woods and plains around them, where they led miserable lives, exposed to the more ferocious species of animals, depending for a scanty subsistence on the flesh of the inferior kinds, or on articles of a less nutritive or palatable nature; continually encroached upon by the whites, and in their own defence compelled to maintain a deadly warfare with them. The superiority of fire-arms gave of course a great advantage to the latter; but the unhappy Bushmen in some degree counter-vailed this advantage by the use of poisoned weapons, the wounds inflicted by which generally proved mortal, and sometimes produced long incurable pain. Our author, at Rhinoster Fonteyn, (Rhinoceros fountain,) found a boor near eighty years of age, who had been wounded in this manner thirty years before, and still suffered occasionally excruciating misery. The Bushmen, compelled by necessity to commit depredations on the flocks of the boors, are regarded by the latter as confirmed enemies; and each endeavours to destroy the other, whenever an occasion presents itself. In a few instances, more amiable sentiments prevail, and our author, hearing at the last-mentioned place, that there was a kraal or horde of these people close by, paid them a visit.—

"A set of beings, in more miserable plight, I could scarcely have conceived: they were nearly destitute of any sort of clothing, crouching together under a few thorn bushes, which formed but a poor defence from the chill night blast; nevertheless they seemed in excellent spirits, and instantly commenced begging tobacco, which they are immoderately fond of, and will do almost any thing to

procure. They exhibited several feats to me, and gave me ocular proof of the accuracy of their aim, and the great distance to which they can shoot their slender but dangerous arrows.

"These poor creatures subsist chiefly upon certain wild bulbs which grow in the plains, and also upon locusts, white ants, and other insects. The bulbs and ants they dig up by means of a hard pointed stick, with a piece of stone fixed on its head to give it sufficient impetus. Living on friendly terms with the boors, and doing little services occasionally, they also come in for the offals of the cattle killed for food, and of wild game which their patrons sometimes shoot for them. This miserable fare, with a supply of tobacco, and a few sheep-skins, satisfies all the wants of these degraded beings."

Through a pathless wilderness, swarming with beasts of prey, rendered dangerous by the ambushes of the hostile Bushmen, and with a very scanty allowance of food, the consequence of his own improvidence; reposing several nights on the bare ground, protected from beasts of prey only by large fires kindled around, our author at last happily reached a village of the *Griquaas*. This is an extraordinary set of people, whose military prowess subsequently rendered them very conspicuous in the local history, and of whom we shall therefore give a short account.

About fifty years ago, a number of the descendants of the Dutch colonists, the offspring of promiscuous intercourse with Hottentot women, retired from the Colony and seated themselves in the wild regions adjoining the Gariep river. For a time they were little more than a horde of wandering and naked savages, subsisting by plunder and by the chase, without knowledge or civilization, abandoned to drunkenness and almost every species of vice. The white settlers and the Bushmen were equally the subjects of their hostility—and their further flight or total extirpation, were apparently the only means of redressing the evil of their existence. But too much praise cannot be bestowed on those singularly constituted minds, of which the Christian Religion furnishes the only specimens—men who, from mere philanthropy, relinquish all the enjoyments of civilized nature, and deserting their friends and their homes, disregarding all personal danger and fatigue, unite themselves with wretched outcasts, to endeavour their reformation. Two such men, *Kramer* and *Anderson*, (whose names ought not to be forgotten,) joined the *Griquaas*, or, as they were then termed, the *Bastaard Hottentots*, about twenty-five years ago; and for a time, until they were able to acquire the necessary influence over them, conformed to their vague and wandering modes of life—but within the space of five or six years, the missionaries wrought so great a change among them, as to fix them in a settlement at *Klaar water*, which subsequently received the appellation of *Griqua Town*. At this settlement, their numbers amount to about 1000 souls. About 1000 more are situate at distant places, but connected with the same community. Their habits and manners are improved; they ac-

knowledge a subjection to the British government at the Cape, from whom they receive the nomination of their own chiefs, and a British agent constantly resides among them. They have at present about five hundred muskets, but are dependent on the Government for the supply of ammunition; and by the possession of fire-arms they have acquired an ascendancy over the helpless nations around them, which was, in the case within the notice of our author, most honourably employed.

Proceeding about one hundred and thirty miles, to the capital of the Bechuanas, a neighbouring tribe, he found them in great consternation, from the rumours of the approach of an armed people from the north, who were called *Mantatees*. Their numbers were reported to be great, their conduct cruel and unsparing, and their force irresistible: to add to the terror, it was represented and believed that they were cannibals. The Bechuanas, an unwarlike race, implored the aid of the Griquaas. It was readily afforded, and two hundred mounted Griquaas, defeated several thousands of the brave, undisciplined Mantatees, in an action, the features of which somewhat resemble a part of the battle of Waterloo, though with an opposite result. The Mantatees, who possessed neither a horse nor a gun, and now for the first time witnessed the speed of the former, and the terrifying destruction of the latter, were drawn up, not very compactly, on the plain. The Griquaas from time to time advanced impetuously upon them, and discharging their muskets, killed numbers, among which were several of their leaders. They then retired to load their pieces, and immediately renewed the same sort of attack, and every shot was successful. The enemy, unable to overtake the horsemen as they fell back, or to reach them with their weapons at the distance at which they fired, at last gave way, and a complete victory was obtained. The Bechuanas, who had made a sorry figure in the fight, thus owed their salvation to these generous auxiliaries; but with the characteristic cruelty of cowardice, they destroyed all the unhappy captives, including women and children, except such as the missionaries had the means of preserving.

A particular description, but too long to transcribe, is given of a great subterraneous cavern, which our traveller visited on his return. One of the apartments, six hundred feet in length, one hundred in breadth, and from sixty to seventy feet in height, was adorned with the most splendid stalactites, many of which were quite transparent. But before visiting this extraordinary cavern, he had passed through a parched Karroo (or desert) country, where, in the course of about fifty miles, he saw, as he calculated, at least 100,000 Springboks, an elegant species of antelope. They were migrating from the Great Desert towards the Colony. This circumstance leads him to mention the devastation occasionally

committed by these animals, which has not been much noticed by former travellers:—

“The following account of the *Trek-bokken*, or migrating springboks, is from the pen of my friend Captain Stockenstrom, who has often personally witnessed the scenes he so vividly describes:—

“It is scarcely possible for a person passing over some of the extensive tracts of the interior, and admiring that elegant antelope the springbok, thinly scattered over the plains, and bounding in playful innocence, to figure to himself, that these ornaments of the desert can often become as destructive as the locusts themselves. The incredible numbers which sometimes pour in from the north, during protracted droughts, distress the farmer inconceivably. Any attempt at numerical computation would be vain; and by trying to come near the truth, the writer would subject himself, in the eyes of those who have no knowledge of the country, to a suspicion that he was availing himself of a traveller’s assumed privilege. Yet it is well known in the interior, that on the approach of the *Trek-bokken*, the grazier makes up his mind to look for pasturage for his flocks elsewhere, and considers himself entirely dispossessed of his lands until heavy rains fall. Every attempt to save the cultivated fields, if they be not enclosed by high and thick hedges, proves abortive. Heaps of dry manure (the fuel of the Sneeuwbergen and other parts) are placed close to each other round the fields, and set on fire in the evening, so as to cause a dense smoke, by which it is hoped the antelopes will be deterred from their inroads; but the dawn of day exposes the inefficacy of the precaution, by showing the lands, which appeared proud of their promising verdure the evening before, covered with thousands, and reaped level with the ground. Instances have been known of some of these prodigious droves passing through flocks of sheep, and numbers of the latter, carried along with the torrent, being lost to their owner, and becoming a prey to the wild beasts. As long as these droughts last, their inroads and depredations continue; and the havoc committed upon them is of course great, as they constitute the food of all classes; but no sooner do the rains fall, than they disappear, and in a few days become as scarce on the northern borders as in the more protected districts of Bruintjes-Hoogte and Camdeboo.”

Mr. Thompson’s second journey commenced in July (which we are to remember, corresponds with the January of the Northern Hemisphere) 1824, and as before he had gone to the eastward, he now steered to the northward of Cape Town. As he advanced, he found the condition of the Bushmen equally melancholy and deplorable with that of the natives whom he had seen in his first travels. As a picture of human misery not often exceeded, and we fear not likely to be meliorated, we will give his own words:—

“The Bushmen on this frontier, whatever may have been the original condition of their progenitors, are now entirely destitute of cattle or property of any description; and now that the larger game have been generally destroyed, or driven out of the country by the guns of the Boors and Griquaas, they are reduced to the most wretched shifts to obtain a precarious subsistence, living chiefly on wild roots, locusts, and the larvæ of insects. The wandering hordes of this people are scattered over a territory of very wide extent, but of so barren and arid a character, that by far the greater portion of it is not permanently habitable by any class of human beings. Even as it is, the colonists are perpetually pressing in upon their limits, wherever a fountain, or even a temporary vley or pool of water is to be found: but had this territory been of a character less desolate and inhospitable, there can be little question that it would have been long ago entirely occupied by the Christians. They are continually soliciting from the Government fresh grants beyond the nominal boundary: and at present are very

urgent to obtain possession of a tract lying between the Zak and Hartebeest Rivers. In defence of these aggressions, they maintained to me, that the Bushmen are a nation of robbers,—who, as they neither cultivate the soil, nor pasture cattle, are incapable of occupying their country advantageously; that they would live much more comfortably, by becoming the herdsmen and household servants of the Christians, than they do at present on their own precarious resources; and finally, that they are incapable of being civilized by any other means, as the failure of the Missionary establishment among them at the Zak River had evinced. At this institution, I was told, the most strenuous exertions had been employed by the missionary Kicherer, for many years, to engraft upon them habits of industry and foresight, but totally without avail; for he had been ultimately forced to abandon the enterprise, and the station was now in ruins. Equally unsuccessful, Nel and Vlok informed me, had been all their own efforts to improve the wild Bushmen. On one occasion, they said, they had given to the captain of a horde a number of sheep and goats, to be kept as a joint stock between the donors and his people; but on visiting the kraal, a short time afterwards, they found there was not one of the flock remaining, and that the Bushmen were as destitute as before.

“Whatever may have been the causes of the failure of Missionary attempts to civilize the Bushmen, I fear that the usual conduct of the farmers towards them, has been rather of a description to render them more barbarous and desperate, than to conciliate or civilize them. Latterly, indeed, several of the more judicious farmers had tried milder measures with them, and Nel informed me that a sort of treaty at present subsists between him and the captain of the principal horde in his vicinity. This chief waits upon Nel at every third full moon, and reports the proceedings of his clan; and if their conduct has been praiseworthy,—if they have lived humbly upon ants and bulbous roots, and refrained from stealing cattle, they receive certain allowances of sheep, tobacco, and trinkets, from the Veld-Commandant and the burghers under his control.”

Surely the condition of these unhappy beings, whose fare of ants and bulbous (wild) roots, is only occasionally varied by the slender charities of the Dutch farmer, would be a proper object of the humanity and great resources of the British government, whose own settlers seem to be no longer pensioners on their bounty. In what manner an effectual melioration of their condition could be accomplished, it is impossible to indicate. Their mental imbecility must render it extremely difficult. The failure of a single missionary ought not, however, to prevent further endeavours; and our author himself, in a note, says that he has since been informed, that the statement, so far as relates to the cause of the missionary's removal, is not correct, and a subsequent note supports the idea that these poor beings are not wholly intractable.

At the last place inhabited by colonists, where an old German resides in a miserable reed hut, the traveller again left the haunts of civilized man, and found himself, “with a mingled feeling of awe and exultation, a traveller in the waste and solitary wilderness.”

He here introduces some verses of a friend, published a few weeks before he commenced his journey, from which, as a specimen of *Europæo South African* poetry, we give our readers a stanza:—

"Afar in the Desert I love to ride,
 With the silent Bush-boy alone by my side :
 Away—away from the dwellings of men,
 By the wild deer's haunt, and the buffalo's glen ;
 By valleys remote, where the oribi plays ;
 Where the gnou, the gazelle, and the hartebeest graze ;
 And the gemsbok and eland unhunted recline
 By the skirts of grey forests o'ergrown with wild vine ;
 And the elephant browses at peace in his wood ;
 And the river-horse gambols unscared in the flood ;
 And the mighty rhinoceros wallows at will
 In the *Vley*, where the wild-ass is drinking his fill."

Mr. Pringle, the author, seems to possess considerable graphic talents, though the structure of his verse is not very felicitous—a part of the succeeding lines presents a dreary, and from Mr. Thompson's account, not an unfaithful picture of countries which he traversed :—

"Away—away in the wilderness vast,
 Where the white man's foot hath never pass'd,
 And the quiver'd Koranna or Bechuan
 Hath rarely cross'd with his roving clan :
 A region of emptiness, howling and drear,
 Which man hath abandon'd from famine and fear ;
 A region of drought, where no river glides,
 Nor rippling brook with osier'd sides ;
 Nor reedy pool, nor mossy fountain,
 Nor shady tree, nor cloud-capp'd mountain,
 Are found—to refresh the aching eye :
 But the barren earth, and the burning sky,
 And the blank horizon round and round,
 Without a living sight or sound,
 Tell to the heart, in its pensive mood,
 That this is—NATURE'S SOLITUDE !"

The truth of this description was soon verified to the poor traveller and his two attendants. A long, naked plain, without trees or water, was to be passed over; for several days the horses were without drink, and for nearly four days our author and his suffering companions were absolutely without food. No game, except in a particular place a few turtle-doves, for which he had no small shot, was seen: some wandering natives were occasionally met with, subsisting on ants and the gum of the *mimora*, which Mr. Thompson declares he could not swallow; and life itself was in danger of extinction, unless they killed and fed upon their horses—a desperate measure, which would have rendered their return impossible. At this critical moment, one of the "Bass boys" determined once more to try the chance of hunting; and to the inexpressible joy of his companions, returned, after a day's absence, loaded with part of the flesh of a zebra.

Mr. Thompson now reached the banks of the Gariep or Orange river, by a route never before explored by a European traveller. This great river flows from the interior to the ocean; its mouth is in about the 29th degree of latitude. The vicinity of its banks

presented different scenes from those in which our traveller had so long toiled ; and in addition to wood and water, and herbage for the horses, he soon found himself among a peaceable and friendly tribe.

The Korannas are said to be a race of pure Hottentots, who have seated themselves on the banks of the Gariep, where they lead a pastoral and quiet life, without hostilities against any but the Bushmen, who even here are regarded as thieves, whom it is not only lawful but meritorious to hunt out and destroy.

On his return, he experienced, though for a shorter time, the same sufferings from the want of wood and water ; and his attendants were on the point of abandoning him in the desert, unless he would accompany them on another route, when the fortunate appearance of two Griquaa hunters prevented their desperate scheme. By these men he was informed, that he was within twenty miles of a missionary settlement, to which he hastened as fast as the debilitated condition of his horses would permit.

He was now among the Namaquas, a race too much resembling the Korannas to merit particular description ; and from this place to Cape Town, which he reached after an absence of six weeks, no important adventure occurred.

In both these expeditions, through countries abounding with wild beasts, we are disappointed in hearing so seldom of those which always attract our curiosity. But Mr. Thompson seems not to have been himself a sportsman ; and, with the single exception of Witteboy's most fortunate shot at the zebra, we have no account of a single hunting expedition. The lion, however, though not sought for, sometimes made his appearance, and terrified without injuring the party. More than once, he suffered them to pass by him without altering his posture ; and on one occasion, while they were at dinner, continued *couchant*, at a small distance, regarding them in the most civil manner during the whole of their repast. The only instance in which there was an attempt at aggression, was a spring made by another lion at one of the horses, in which the assailant failed, and afterwards stalked slowly away. That a sullen departure after an abortive assault, is a leonine habit, is attested by other travellers ; and were it not, we should be disposed to credit the relation on the authority of Mr. Thompson alone.

The following remarkable case was communicated to our traveller, and believed by him to be true :—

“I was told here that a lion had just killed an ox, and been shot in the act. It is the habit of the lion, it seems, when he kills a large animal, to spring upon it, and, seizing the throat with his terrible fangs, to press the body down with his paws till his victim expires. The moment he seizes his prey, the lion closes his eyes, and never opens them again until life is extinct. The Hottentots are aware of this ; and on the present occasion, one of the herdsmen ran to the spot with his gun, and fired at the lion within a few yards distance ; but from the agi-

tation of his nerves, entirely missed him. The lion, however, did not even deign to notice the report of the gun, but kept fast hold of his prey. The Hottentot reloaded, fired a second time, and missed; reloaded again, and shot him through the head. This fact, being well authenticated, seemed to me curious, and worthy of being mentioned."

In the Appendix are inserted some anecdotes of the lordly brute, collected by the author's friend; the most remarkable of which are those which show the impression sometimes made on him by the human countenance. Diederik Miller, one of the most intrepid and successful lion hunters in South Africa, had once been out,

"Hunting in the wilds, when he came suddenly upon a lion, which, instead of giving way, seemed disposed, from the angry attitude he assumed, to dispute with him the dominion of the desert. Diederik instantly alighted, and confident of his unerring aim, levelled his mighty *roer* at the forehead of the lion, who was couched in the act to spring, within fifteen paces of him: but at the moment the hunter fired, his horse, whose bridle was round his arm, started back, and caused him to miss. The lion bounded forward—but stopped within a few paces, confronting Diederik,—who stood defenceless, his gun discharged, and his horse running off. The man and the beast stood looking each other in the face, for a short space. At length the lion moved backward, as if to go away. Diederik began to load his gun; the lion looked over his shoulder, growled, and returned. Diederik stood still. The lion again moved cautiously off; and the boor proceeded to load, and ram down his bullet. The lion again looked back, and growled angrily: and this occurred repeatedly, until the animal had got off to some distance,—when he took fairly to his heels, and bounded away."

"Gert Schepers, a Vee-Boor of the Cradock District, was less fortunate in an encounter with a South African lion. Gert was out hunting in company with a neighbour,—whose name, as he is yet alive, and has perhaps been sufficiently punished, I shall not make more notorious. Coming to a fountain, surrounded, as is common, with tall reeds and rushes, Gert handed his gun to his comrade, and alighted to search for water. But he no sooner approached the fountain, than an enormous lion started up close at his side, and seized him by the left arm. The man, though taken by surprise, stood stock still without struggling, aware that the least attempt to escape would ensure his instant destruction. The animal also remained motionless, holding fast the boor's arm in his fangs, but without biting it severely,—and shutting his eyes at the same time, as if he could not withstand the countenance of his victim. As they stood in this position, Gert, collecting his presence of mind, began to beckon to his comrade to advance and shoot the lion in the forehead. This might have been easily effected, as the animal not only continued still with closed eyes, but Gert's body concealed from his notice any object advancing in front of him. But the fellow was a vile poltroon, and in place of complying with his friend's directions, or making any other attempt to save him, he began cautiously to retreat to the top of a neighbouring rock. Gert continued earnestly to beckon for assistance for a long time, the lion continuing perfectly quiet: and the lion hunters affirm, that if he had but persevered a little longer, the animal would have at length relaxed his hold, and left him uninjured. Such cases at least, they maintain, have occasionally occurred. But Gert, indignant at the pusillanimity of his comrade, and losing patience with the lion, at last drew his knife, (a weapon which every back-country colonist wears sheathed at his side,) and with the utmost force of his right arm, plunged it into the animal's breast. The thrust was a deadly one, for Gert was a bold and powerful man; but it did not prove effectual in time to save his own life,—for the enraged savage, striving to grapple with him, and held at arm's length by the utmost efforts of Gert's strength and desperation, so dreadfully lacerated the breast and arms of the unfortunate man with his talons, that his bare bones were laid open.

The lion fell at last, from loss of blood, and Gert fell along with him. The cowardly companion, who had witnessed this fearful struggle from the rock, now, however, took courage to advance, and succeeded in carrying his mangled friend to the nearest house,—where such surgical aid as the neighbours could give, was immediately, but vainly applied. Poor Gert expired, on the third day after, of a locked-jaw."

On the whole, we sincerely recommend Mr. Thompson's narrative to that class of readers, and it is not a small one, who are fond of books of travels; and we can assure them that it may be read from beginning to end without incredulity or discontent.

ART. VII.—*Personal Sketches of His Own Times.* By SIR JONAH BARRINGTON, Judge of the High Court of Admiralty in Ireland, &c. &c. &c. 2 vols. 8vo. London: 1827.

It may be positively stated, that there is no country in which Americans in general feel so much interest as Ireland; and that, individually, no persons of foreign birth take so strong and lasting a hold of their affections as Irishmen. The causes of this superior concern and predilection are easily discovered, in the ties of consanguinity; political sympathies; the numbers of the sons of Erin who are incorporated with our society; the services which they have rendered to the Republic, and the excellent traits and racy peculiarities of their character. Ireland was never regarded here as part of the *mother country*, in relation to us: with her, we have never had a political quarrel; but, on the contrary, when we deemed ourselves oppressed or injured by England, we have ever viewed the Irish in the light of fellow-sufferers, themselves detesting the yoke which we were successfully endeavouring to throw off; ready to condole with us in our disasters, and rejoice with us in our prosperity; and even anxious to contend, if it were possible, on our side, against the royal decree, or royal standard.

It cannot perhaps be said, that the mass of the Hibernians are either monarchists or republicans; comparatively few of them being so educated or circumstanced, as to entertain any specific theory of government: this, however, is certain, that no people of Europe are less attached to the kingly system, and that their situation for several centuries has directly tended to disgust them with it in all its details. We may claim the largest portion of the enlightened, as republicans in heart and principle; and we know the unequalled facility, earnestness, and efficiency, with which, when they emigrate to us, they adopt and imbibe our republican spirit and creed, and wed and mould themselves to our institutions and habits. Personally, they win our confidence and affection,

sooner and more entirely than the English or Scotch, whether from the circumstances which have been noted, or the greater warmth and cohesiveness of their natures, and the frankness and cordiality of their manner. Far be it from us to disparage or underrate the others, either in a social or political sense; we barely notice a fact, within the experience of almost every adult American:—all citizens, or residents, of foreign birth, have it in their power to identify themselves here with the natives, in every relation of life; and those, especially, who speak the same language with ourselves, and with whom we trace a common descent. But, while the Briton remains in some degree attached to the institutions of his original country, and in many instances designs or would prefer to return to it and his allegiance, the Irishman, almost universally, looks back upon the government and general condition of Ireland, not with regret or admiration, but with utter aversion and shame—and considers himself as for ever separated from them, and indissolubly joined in an order of things which he loves, and under which he can flourish, whatever may be his religious creed, or however humble his calling.

In noticing the force of what we may call Irish attraction, some part, undoubtedly, is to be ascribed to the oddities and eccentricities by which the nation is distinguished. Even the English or American traveller in Ireland finds more that strikes him as singular and peculiar, whimsical and piquant, than among any other people whom he may have surveyed. We can state this to have been the case with ourselves, during a personal observation of some months, which included several of the principal cities and counties of the island. If we had enjoyed no previous acquaintance or connexion with individuals from that meridian, we should still have received, while there, indelible impressions of wonder, regard, admiration, pity, mirth—all strangely blended, and adapted to perpetuate in our minds that lively concern for Irish welfare, and keen appetite for Irish anecdote, which prevail so generally in these United States. The lettered American is affected, too, by more than their extraordinary moral qualities and natural intellectual endowments: he thinks of the works and reputation of their Steeles, their Swifts, their Berkleys, their Burkes, their Sheridans, their Grattans, their Currans, their Moores.

The books which have been published respecting Ireland by English tourists, are sufficiently numerous; and though, for the most part, suspicious as to the colouring, if not as to much of the narrative and opinion, they furnish a great deal of what is accurate, with regard to external appearances and general condition and habits. Until of late years, few Irish authors undertook to paint their own country in detail; now, there is a large indigenous fund, of description, anecdote, stricture, fact, and specula-

tion: we need mention only the massive quartos of Wakefield, the writings of Miss Edgeworth, and the several series of such productions as the Tales of the O'Hara Family.

Of all the books of this kind which have fallen into our hands, the most entertaining, and we may add, the most instructive, are the volumes, the title of which we have placed at the head of this article, and from which we mean to draw as copiously as we can, consistently with our limits. In using the term *instructive*, we do not refer to statistical knowledge or political philosophy; but to varied and vivid illustration of peculiar customs, faculties, and propensities; and to the ample and graphic delineation of conspicuous men, by which the structure of society, the springs of public action, and the operation of characteristic virtues and vices, are clearly and amusingly displayed. *Sir Jonah Barrington*, our author, is at present Judge of the High Court of Admiralty in Ireland; his *Sketches* are dedicated to the Chief Justice of that country, as his particular friend; he boasts an opulent and honourable lineage; he was a lawyer of eminence, a king's counsel, a prominent member of the Irish Parliament, and throughout the greater part of his life of "sixty solar revolutions," held familiar intercourse with the *haut ton* of the sister kingdoms in both politics and fashion. He seems to have professed and exercised loyalty to the British government from an early period; always strenuously co-operating with the ministry, until the epoch of the Union; when, angry with that measure, he ceased to be subservient, and became not absolutely an antagonist, but something of a *frondeur*—a free critic. Neither his old enemies of the Opposition, nor his old friends of the ministerial ranks, gave him credit, however, for superabundant principle in any phasis: and we must confess, that we did not rise from the perusal of his volumes, with much respect for the career or dispositions of the man. He falls into frequent and gross egotism; writes of suicides, duels, and other modish crimes, with extreme indifference or levity; often indulges his political and personal resentments, and totally disregards the annoyance which many of his stories must occasion to the unoffending relatives and friends of the individuals who are the subjects of them. Several of his anecdotes and pictures, are nearly, if not utterly incredible, although it seems almost impossible that he should have sent them forth without a direct knowledge, or thorough conviction, of their authenticity. He himself terms his *Sketches* a singular medley, and remarks, in explanation of the prodigious anomalies which he records:—"there is something so very different from other people in every deed or word of the unsophisticated Irish, that, in fact, one has no right to be surprised, whatever scenes may by them be acted." And again he says—

"In travelling through Ireland, a stranger is very frequently puzzled by the singular ways, and especially the idiomatic equivocations, characteristic of every Irish peasant. Some years back more particularly, these men were certainly originals—quite unlike any other people whatever. Many an hour of curious entertainment has been afforded me by their eccentricities; yet, though always fond of prying into the remote sources of these national peculiarities, I must frankly confess that with all my pains, I never was able to develop half of them, except by one sweeping observation: namely, that the brains and tongues of the Irish, are somehow differently formed or furnished, from those of other people."

This is candid enough, but it must not be received in an invidious sense; any more than our own reference to that fantastic particularity of character, with which are associated so many of the finest qualities of the head and the heart. Our author calls Miss Edgeworth's *Castle Rackrent*, "an admirable sketch, and a faithful picture of Irish nature, under the circumstances which she has selected." We may presume, that from the partial alteration of circumstances, the picture does not altogether suit the present time; just as some of Sir Jonah's own sketches of things during his boyhood must be considered as faithful, only to the past, or, in themselves, instances of the *richest* exaggeration. His first sixty or seventy pages are allotted to his "family connexions" and his early education—topics which include, of course, a variety of pleasant incidents and pictures. He was adopted, as soon as he was born, by his grandfather, an Irish country gentleman of the old school, in whose mansion of "Cullenaghmore" he resided nine years, learning legendary tales as repeated by the "old people," and, when he could read, poring over *Gulliver's Travels*, *Robinson Crusoe*, and the *History of the Bible*—books which, along with a very few others that he enumerates, then composed the whole library of an Irish squire of high degree. A part of the manners of the day is thus illustrated:—

"I have heard it often said that, at the time I speak of, every estated gentleman in the Queen's County was *honoured* by the gout. I have since considered that its extraordinary prevalence was not difficult to be accounted for, by the disproportionate quantity of acid contained in their seductive beverage, called rumshrub—which was then universally drunk in quantities nearly incredible, generally from supper-time till morning, by all country gentlemen, as they said, to keep down their claret.

"My grandfather could not refrain, and therefore he suffered well:—he piqued himself on procuring, through the interest of Batty Lodge, (a follower of the family who had married a Dublin grocer's widow,) the very first importation of oranges and lemons to the Irish capital every season. Horse-loads of these, packed in boxes, were immediately sent to the Great House of Cullenaghmore; and no sooner did they arrive, than the good news of *fresh fruit* was communicated to the Colonel's neighbouring friends, accompanied by the usual invitation.

"Night after night the revel afforded uninterrupted pleasure to the joyous gentry: the festivity being subsequently renewed at some other mansion, till the Gout thought proper to put the whole party *hors de combat*; having the satisfaction of making cripples for a few months such as he did not kill.

"Whilst the convivals bellowed with only toe or finger agonies, it was a mere bagatelle; but when Mr. Gout marched up the country, and invaded the head or the stomach, it was then called *no joke*; and Drogheda usquebaugh, the hottest-distilled drinkable liquor ever invented, was applied to for aid, and generally

"drove the tormentor in a few minutes to his former quarters. It was, indeed, counted a specific; and I allude to it the more particularly, as my poor grandfather was finished thereby."

The mutual attachment between the Irish peasantry and their landlords, was one of the most prominent and fruitful traits in Irish history; it still exists in a degree to be remarkable; but the events and discussions of the last thirty years have considerably limited its extent and agency. Sir Jonah recites various instances of it; of which one (a little horrible) may suffice to illustrate the devotion of servants at least, to their masters:—

"My grandmother, an O'Brien, was high and proud—steady and sensible; but disposed to be rather violent at times in her contempts and animosities, and entirely agreed with her husband in his detestation of Mr. Dennis Bodkin.

"On some occasion or other, Mr. Dennis had outdone his usual outdoings, and chagrined the squire and his lady most outrageously. A large company dined at my grandfather's, and my grandmother launched out in her abuse of Dennis, concluding her exordium by an hyperbole of hatred expressed, but not at all meant, in these words:—"I wish the fellow's ears were cut off! that might quiet him."

"It passed over as usual: the subject was changed, and all went on comfortably till supper; at which time, when every body was in full glee, the old Butler, Ned Regan (who had drunk enough) came in:—joy was in his eye; and whispering something to his mistress which she did not comprehend, he put a large snuff-box into her hand. Fancying it was some whim of her old domestic, she opened the box and shook out its contents:—when, lo! a considerable portion of a pair of bloody ears dropped on the table!—The horror and surprise of the company may be conceived: upon which old Ned exclaimed—"Sure, my lady, you wished that Dennis Bodkin's ears were cut off; so I told old Gahagan (the game-keeper), and he took a few boys with him, and brought back Dennis Bodkin's ears—and there they are; and I hope you are plazed, my lady!"

"The scene may be imagined:—but its results had like to have been of a more serious nature. The sportsman and the boys were ordered to get off as fast as they could; but my grandfather and grandmother were held to heavy bail, and were tried at the ensuing assizes at Galway. The evidence of the entire company, however, united in proving that my grandmother never had an idea of any such order, and that it was a mistake on the part of the servants. They were, of course, acquitted. The sportsman never re-appeared in the county till after the death of Dennis Bodkin, which took place three years subsequently."

His first instructor in the grandfather's mansion, is portrayed at full length, as follows:—

"Mr. *Michael Lodge* is a person of very considerable consequence in my early memoirs. I never shall forget his figure!—he was a tall man with thin legs and great hands, and was generally biting one of his nails whilst employed in teaching me. The top of his head was half bald: his hair was clubbed with rose-ribbon; a tight stock, with a large silver buckle to it behind, appeared to be almost choking him: his chin and jaws were very long—and he used to hang his under jaw, shut one eye, and look up to the ceiling, when he was thinking or trying to recollect any thing.

"Mr. Michael Lodge had been what is called a Matross in the artillery service. My grandfather had got him made a gauger; but he was turned adrift for letting a poor man do something wrong about distilling. He then became a land-surveyor and architect for the farmers:—he could farry, cure cows of the murrain, had numerous secrets about cattle and physic, and was accounted the best bleeder and bone-setter in that county—all of which healing accomplishments he exercised gratis. He was also a famous brewer and accountant—in fine, was every thing at Cullenagh: steward, agent, caterer, farmer, sportsman, secretary, clerk to the colonel as a magistrate, and also clerk to Mr. Barret as the parson: but he would not sing a stave in church, though he'd chant indefatigably in the

hall. He had the greatest contempt for women, and used to beat the maid-servants; whilst the men durst not vex him, as he was quite despotic! He had a turning-lathe, a number of grinding-stones, and a carpenter's bench, in his room. He used to tin the saucepans, which act he called *chymistry*; and I have seen him, like a tailor, putting a new cape to his riding-coat! He made all sorts of nets, and knit stockings; but above all he piqued himself on the variety and depth of his *learning*.

"Under the tuition of this Mr. Michael Lodge, who was surnamed the 'wise man of Cullenaghmore,' I was placed at four years of age, to learn as much of the foregoing as he could teach me in the next five years: at the expiration of which period he had no doubt of my knowing as much as himself, and then (he said) I should go to school 'to teach the master.'"

At the expiration of the five years, the immortal Jonah was carried to Dublin, and "put to" the famous schoolmaster of that era, Dr. Ball, and from him duly transferred into the hands of a private tutor, by whom he was *finished* for the University of Dublin. The portrait of the tutor,—as striking as that of Irving's Ichabod Crane,—is also worthy of being copied:—

"My tutor was well known many years in Digges-street, Dublin, and cut a still more extraordinary figure than the Matross. He was the Rev. Patrick Crawly, Rector of Killgobbin, whose son, my schoolfellow, was hanged a few years ago for murdering two old women with a shoemaker's hammer. My tutor's person was, in my imagination, of the same genus as that of Caliban. His feet covered a considerable space of any room wherein he stood, and his thumbs were so large that he could scarcely hold a book without hiding more than half the page of it:—though bulky himself, his clothes doubled the dimensions proper to suit his body; and an immense frowzy wig, powered once a week, covered a head which, for size and form, might vie with a quarter-cask.

"Vaccination not having as yet plundered horned cattle of their disorders, its predecessor had left evident proofs of attachment to the rector's countenance. That old Christian malady, the small-pox, which had resided so many centuries amongst our ancestors, and which modern innovations have endeavoured to undermine, had placed his features in a perfect state of compactness and security—each being screwed quite tight to its neighbour, and every seam appearing deep and gristly, so that the whole visage appeared to defy alike the edge of the sharpest scalpel and the skill of the most expert anatomist.

"Yet this was as good-hearted a parson as ever lived:—affectionate, friendly, and, so far as Greek, Latin, Prosody, and Euclid went, excelled by few: and under him I acquired, in one year, more classical knowledge, than I had done during the former six, whence I was enabled, out of thirty-six pupils, early to obtain a place in the University of Dublin."

We shall pass by the college course of our author, in which there was nothing extraordinary. At its termination, he went to reside with his brother on the family estate, in the midst of scenes of coarse and droll dissipation, enlivened by unique heroes of the bottle and the jest, for whose exploits we must refer our readers to his first volume. The sketch of one of them will suffice both to exemplify the social circle, and the broad style in which Sir Jonah uses his pencil:—

"Commodore Truncheon was a civilized man, and a beauty (but a fool), compared to Parsons Hoyer. He had a moderate hereditary property near Wicklow; had been a captain in the royal navy; was a bad farmer, a worse sportsman, and a blustering justice of peace: but great at potation! and what was called, 'in the main, a capital fellow.' He was nearly as boisterous as his adopted element: his voice was always as if on the quarter deck; and the whistle of an old boat-

swain, who had been decapitated by his side, hung as a memento, by a thong of leather, to his waistcoat button-hole. It was frequently had recourse to, and, whenever he wanted a word, supplied the deficiency.

"In form the Captain was squat, broad, and coarse :—a large purple nose, with a broad crimson chin to match, were the only features of any consequence in his countenance, except a couple of good enough bloodshot eyes, screened by most exuberant grizzle eye-lashes. His powdered wig had behind it a queue in the form of a hand-spike, and a couple of rolled-up paste curls, like a pair of carronades, adorned its broad-sides; a blue coat, with slash cuffs and plenty of navy buttons, surmounted a scarlet waistcoat—the skirts of which, he said, he would have of their enormous length, because it assured him that the tailor had put *all the cloth in it*; a black Barcelona adorned his neck; an old round hat bordered with gold lace, pitched on one side of his head, and turned up also on one side, with a huge cockade stuck into a buttonless loop, gave him a swaggering air. He bore a shillelagh, the growth of his own estate, in a fist which would cover more ground than the best shoulder of wether mutton in a London market.* Yet the Captain had a look of generosity, good nature, benevolence and hospitality, which his features did their very best to conceal, and which none but a good physiognomist could possibly discover."

"A nephew of his, an effeminate young fellow, who had returned from travelling, and who expected to be his heir, accidentally came into the coffee-room. Neither uncle nor nephew knew each other; but old Parsons' disgust at the dandified manners, language, and dress of the youth, gave rise to an occurrence which drew from the bluff seaman epithets rather too coarse to record :—the end of it was, that, when Parsons discovered the relationship of the stranger, he struck him out of a will which he had made, and died very soon after, as if on purpose to mortify the macaroni!"

Our author, after hesitating for a time about the choice of a profession, adopted that of the law, in which, as we have already intimated, he succeeded both as to reputation and lucre. He married the daughter of a wealthy silk-mercator of Dame-street in Dublin, who, being able to make him a rich man, was desirous of rendering him a great one, and bought for him, finally, a seat in the Irish Parliament. In this body, he pushed his fortunes by zealously advocating the measures and designs of the government. Towards his opponents there, he was bold, petulant, and frequently abusive; but he experienced the less inconvenience and danger from the indulgence of his humour, because he was known to be a good *shot*, and not to want courage; and moreover, contrived to maintain with them, in private, a convivial and bantering intercourse, by which all wounds inflicted in public were easily healed in natures so generous. If fiery impetuosity and instantaneous defiance are common to the higher as well as lower orders of the Irish,—prompt and easy placableness, a quick unaffected return to kindly sentiments and professions, may be not less frequently noted in the former. A kindred modification of their spirit is illustrated by Hardy, in his Life of Charlemont,

* "I once saw the inconvenience of that species of fist strongly exemplified:—The late Admiral Cosby, of Stradbally Hall, had as large and as brown a fist as any admiral in His Majesty's service. Happening one day unfortunately to lay it on the table during dinner, at Colonel Fitzgerald's, Merrion Square, a Mr. Jenkins, a half-blind doctor, who chanced to sit next to the admiral, cast his eye upon the fist: the imperfection of his vision led him to believe it was a French roll of bread, and, without further ceremony, the doctor thrust his fork plump into the admiral's fist. The confusion which resulted may be easily imagined."

in a very interesting remark of Daly, a leading orator of the Irish House of Commons. "On some question in the House," says Hardy, "the Court was either left in a minority, or obliged to withdraw it. Some member attempted to pursue this apparent triumph, by a more decisive resolution. 'How little,' exclaimed Daly, 'is he acquainted with this House! Were I a minister, and wished to carry a very untoward measure, it would be directly after we had passed some strong resolution against the Court. So blended is the good nature of Irish gentlemen with their habitual acquiescence, that unless party or the times be very violent indeed, we always wish to shrink from a second resolution against a minister, and to make, as it were, some atonement for our precipitant patriotism, by as rapid a return to our original civility and complaisance.'"

To return to Sir Jonah. His speeches, whether in Parliament or at the bar, were never distinguished as learned, logical, or eloquent; they were loose, wild, and irregular, much like the stories in his book; but they had, equally with these, redeeming properties in their occasional force, poignancy, and felicity of expression and tone. He rarely convinced any hearer, while he as rarely failed to engage attention, and "come off" with some degree of eclat or distinction. We have thought it well to state the foregoing particulars of our author,—which are not found in his *Sketches*,—since it is of some importance for his readers to know him as he really was, that is, to understand him rightly. In a few instances, however, he is quite frank with regard to his own conduct and motives. For example, after relating that, on his introduction into the Irish Parliament, he quickly determined to attach himself to the administration, he proceeds to describe his first oratorical essay, in the following strain:—

"My mind being made up, I determined to render myself of some importance to the side I had adopted. The common course of desultory debate, (even conquest over declaimers of my own calibre), would have led to no distinction. I decided either to rise or fall; and with this view, resolved to fly at once at the highest game, in which attempt even if I should not succeed, the trial itself would be honourable. My earliest effort was therefore directed against the two most celebrated speakers of that period, Grattan and Curran; and on the first day I rose, I exhibited a specimen of what I may now call true arrogance. The novelty of such unexpected effrontery surprised the House, and afterwards surprised myself. It was a species of bold hardihood, which, I believe, no person who had a just sense of his own inferiority would have ventured on without great hesitation.—I launched into a strong philippic on the conduct of the most able and respectable opposition that Ireland had ever possessed. I followed and traced the whigs, as I thought, through all their meanderings and designs. In a word, I surpassed the boundaries, not only of what I had myself resolved, but of what common prudence and propriety should have dictated. The government party, at the same time, was evidently not gratified. Its members, no doubt, considered me as a lost partisan, who had courted and called for my own suppression; and with some portion of the same feeling myself, I sat down almost ashamed of my forwardness, and awaiting, if not with resignation, at least with certainty, a just although cruel chastisement. How then must I have been surprised, and how

wofully rebuked, by the mild and gentlemanly retorts which I received from Grattan! whilst Curran's good temper never showed itself more conspicuously, than in his treating me merely with wit and facetiousness. I was abashed and mortified on contrasting the forbearance of those great men with my own intemperance."

The heads of the fashionable world, the renowned lawyers, and the influential politicians, in Dublin, at the period when our author began to flourish among them, constitute a fertile and diversified theme for him, and occupy a considerable portion of his first volume. We have, in the first place, the late Lord *Mountmorris*, who fancied himself by far the greatest orator and politician in Europe, and who sent to the press a florid speech, which he intended to have spoken in the House of Lords; but the debate, of which it was to have formed a part, did not take place; and his lordship having neglected to countermand its publication, his studied harangue appeared next day in the Dublin newspapers, with all the supposititious *cheerings*, &c. duly interposed! Sir *Richard Musgrave*, so famous as an Orange leader, was literally insane on all political subjects, his imagination being fraught with nothing but Papists, Jesuits, and rebels. One night, his wife awoke from a sense of suffocation, and found Sir Richard endeavouring to strangle her, and roaring—"You infernal Papist rebel!—you United Irishman!—I'll never part from you alive, if you don't come quietly!" The lady, a fine woman, made her escape with great difficulty, fled immediately from the house in her *robe de chambre* and slippers, and never would return, apprehending that her husband's dreams might too often endanger her life. It is related of an eminent living judge of Virginia, from whom a favourite horse had been stolen, that when holding court, he suddenly rushed from the bench, seized the sheriff, who was standing in the middle of the court-room, by the throat, with a terrible gripe, and, while he nearly throttled his officer, continued to exclaim, with intense and wild earnestness, "Here he is! Mr. Sheriff, here he is! I have got the villain—secure him!" The sheriff bore some personal resemblance to the thief, who filled the mind's eye of the worthy judge. This, however, was a real hallucination: Sir Richard had an old grudge against his wife, and may have tried a feint which she too well comprehended. It is not all Othellos who have courage to strangle their Desdemonas as ingenuously as the Moor.

Sir *Edward Newnham*, member of the Irish Parliament for Dublin county, by repeatedly writing letters of congratulation, at length extorted a reply from General Washington, "which he exhibited on every occasion, giving it to be understood, by significant nods, that he knew vastly more than he thought proper to communicate." Sir *Frederick Flood*, another member, had a habit, of which he could never effectually break himself, of repeating involuntarily, when speaking in public, whatever a

person at his back whispered or suggested to him. On a certain occasion in the Parliament, he lauded to the skies the Wexford magistracy, and as he was about to conclude, declared that "the said magistracy ought to receive some signal mark of the Lord Lieutenant's favour." A maudlin colleague behind him whispered—"and to be whipped at the cart's tail." "And be whipped at the cart's tail," repeated Sir Frederick unconsciously, amid peals of laughter from every side of the house. Sir *Boyle Roche* was the most celebrated and entertaining blunderer in the Irish Parliament. Sir Jonah knew him intimately, and records a number of his most amusing *bulls*; but most of them are, no doubt, already familiar to our readers. It was to him, after he had boasted in company that Sir John Cave had given him his *eldest* daughter, that Curran observed, "Aye, and depend upon it, that if he had had an *older* one still, he would have given her to you." Sir Jonah recommends to the gentlemen of the army, as a motto, Sir Boyle's apothegm—The best way to *avoid* danger is to *meet it plump*.

The Duke of Wellington and the late Lord Londonderry are introduced into our author's crowded gallery of portraits. His acquaintance with them began in 1793, in which year he met them first, at dinner, at the house of Sir John Parnel. The Duke (then *Captain* Arthur Wellesley) was "ruddy-faced and juvenile in appearance, and popular among the young men of his age and station." His address was, as it still is, rather awkward and ungainly: according to Sir Jonah, he never spoke successfully in the Irish Parliament, to which he was returned in 1790, and he gave no promise of the celebrity to which he has since attained. We remember to have heard him speak, as Sir Arthur, in the British House of Commons, where he acquitted himself well, not as an orator, but as a man of sense and business. Lord Castlereagh was "a professed and not very moderate *patriot*"—he became a leading member of the Reform and Liberal societies, and commenced his career in the Irish Parliament by a motion for a committee to inquire into the representation of the people, with the ulterior object of a *reform* in Parliament. He was then deemed "a very clever young man." Sir Jonah reprobates his subsequent political life, averring that his lordship's public character was corrupt, and that he (Sir Jonah) possesses indisputable and ample proof of the "public bribery and palpable misrepresentations" of which he was guilty. Yet he adds, that he never had the slightest objection to his private character, which he believes to have been "friendly though cold, and fair though ambiguous." He thinks that the Duke and the Marquis owed, in part, the extent of their respective elevation and fame, to their personal intimacy and reciprocal friendship:—the one would never have obtained the chief command in Spain, but for the

ministerial manœuvring of the other; and the successes of the general enabled the minister to stand his ground.

The most interesting and striking description of an individual, which we find in the first volume, is that of CURRAN, the unrivalled wit and the splendid advocate. Sir Jonah boasts of having enjoyed a long and close intimacy with him, particularly in his earlier and brighter days, when his manifold genius shone with a lustre and continuance, of which no adequate idea could be formed by those who knew him only during the period of his deterioration. Sir Jonah thinks, that even so early as 1798, his talents began to wane, slowly but obviously. We ourselves passed a week in the same house with him,—the Dublin hotel, at Cheltenham in England, in 1807 or 1808. The impression which has remained upon our mind, from frequent conversations with him, is—that we never encountered a person of intellectual renown, whose whole appearance, and whose discourse in general, made a stronger and more unfortunate contrast with his celebrity, and gave less indication of the peculiar powers by which he had raised himself to the highest eminence. His visage, limbs, and carriage, were all mean and vulgar; he almost invariably failed in his attempts to be witty, and he descanted on literature and politics like an ignorant prosier. We shall proceed to extract a few of our author's paragraphs concerning him; for they offer a pathetic moral, as well as a vivid exhibition.

"My intimacy with Curran was long and close. I knew every turn of his mind and every point of his capacity. He was not fitted to pursue the niceties of detail;—but his imagination was infinite, his fancy boundless, his wit indefatigable. There was scarce any species of talent to which he did not possess some pretension. He was gifted by Nature with the faculties of an advocate and a dramatist; and the lesser but ingenious accomplishment of personification (without mimicry), was equally familiar to him. In the circles of society, where he appeared every body's superior, nobody ever seemed jealous of the superiority.

"Curran's person was mean and decrepit: very slight, very shapeless—with nothing of the gentleman about it; on the contrary, displaying spindle limbs, a shambling gait, one hand imperfect, and a face yellow, furrowed, rather flat and thoroughly ordinary. Yet his features were the very reverse of disagreeable: there was something so indescribably dramatic in his eye and the play of his eyebrow, that his visage seemed the index of his mind, and his humour the slave of his will. I never was so happy in the company of any man as in Curran's for many years. His very foibles were amusing.—He had no vein for poetry; yet fancying himself a bard, he contrived to throw off pretty verses: he certainly was no musician; but conceiving himself to be one, played very pleasingly; Nature had denied him a voice; but he thought he could sing; and in the rich mould of his capabilities, the desire here also bred, in some degree, the capacity.

"It is a curious, but a just remark, that every slow, *crawling* reptile is in the highest degree disgusting; whilst an insect, ten times uglier, if it be sprightly and seems bent upon enjoyment, excites no shuddering. It is so with the human race: had Curran been a dull, slothful, inanimate being, his talents would not have redeemed his personal defects. But his rapid movements,—his fire,—his sparkling eye,—the fine and varied intonations of his voice,—these conspired to give life and energy to every company he mixed with; and I have known ladies who, after an hour's conversation, actually considered Curran a *beauty*, and preferred his society to that of the finest fellows present."

* * *

"In 1812, Curran dined at my house in Brook-street, London. He was very dejected: I did my utmost to rouse him—in vain. He leaned his face on his hand, and was long silent. He looked yellow, wrinkled, and livid: the dramatic fire had left his eye, the spirit of his wit had fled, his person was shrunken, and his whole demeanour miserable and distressing.

"After a long pause, a dubious tear standing in his eye, he on a sudden exclaimed, with a sort of desperate composure, 'Barrington, I am perishing! day by day I'm perishing! I feel it: you knew me when I *lived*—and you witness my annihilation.' He was again silent.

"I felt deeply for him. I saw that he spoke truth: reasoning would only have increased the malady, and I therefore tried another course—*bagatelle*. I jested with him, and reminded him of old anecdotes. He listened—gradually his attention was caught, and at length I excited a smile; a laugh soon followed, a few glasses of wine brought him to his natural temperament, and Curran was himself for a great part of the evening. I saw, however, that he would soon relapse, and so it turned out: he began to talk to me about his family, and that very wildly. He had conceived some strange prejudices on this head, which I disputed with him, until I wearied of the subject."

"At the bar I never saw an orator so capable of producing those irresistible transitions of effect, which form the true criterion of forensic eloquence. But latterly, no man became more capable, in private society, of exciting drowsiness by prosing, or disgust by grossness: such are the inconsistent materials of humanity."

* * * *

"There is much of the life of this celebrated man omitted by those who have attempted to write it. Even his son could have known but little of him, as he was not born at the time his father's glories had attained their zenith."

Grattan is of course remembered and emblazoned by Sir Jonah, whom he appears to have been always willing to befriend, though never able to esteem. That was, to our apprehension, the Irish orator and patriot *par excellence*; superior to Curran, in vigour and scope of intellect; in dignity and energy of eloquence; in variety and refinement of knowledge; and far above him, in the true spirit and deportment of a gentleman. His public virtue was pure, lofty, and delicate; his private morality, unremitting, amiable, and diffusive. Sir Jonah remarks, "Most great men have their individual points of superiority; and I am sure that Sheridan could not have preached, nor Kirwan have pleaded. Curran could have done both—Grattan neither; but, in language calculated to rouse a nation, Grattan, whilst young, far exceeded either of them." This doctrine is gratuitous and artificial: he who was able to rouse a nation, could have swayed a congregation, a court, or a jury; his faculties of exhortation and persuasion, his ethical maxims, his cogent and brilliant dialectics, might have been as successfully employed at the bar and in the pulpit, as in any deliberative assembly.

In 1803, Sir Jonah presented himself, in Dublin, as a candidate for a seat in the British Parliament. Grattan seconded his pretensions; and our author connects with his narrative of the contest, (in which he miscarried,) the following anecdotes of his illustrious supporter:—

"On the election in question, I was proposed by Mr. George Ponsonby; and upon Mr. Grattan rising next to vote upon my tally, he was immediately objected to as having been expelled on the report of Lord Clare's committee. A burst of indignation on the one side, and of boisterous declamation on the other, forthwith succeeded. It was of an alarming nature: Grattan meanwhile standing silent, and regarding, with a smile of the most ineffable contempt ever expressed, his shameless accusers. The objection was made by Mr. John Giffard, of whom hereafter. On the first intermission of the tumult, with a calm and dignified air, but in that energetic style and tone so peculiar to himself, Mr. Grattan delivered the following memorable words:—

"Mr. Sheriff, when I observe the quarter from whence the objection comes, I am not surprised at its being made! It proceeds from the hired traducer of his country—the excommunicated of his fellow-citizens—the regal rebel—the unpunished ruffian—the bigotted agitator!—In the city a firebrand—in the court a liar—in the streets a bully—in the field a coward!—And so obnoxious is he to the very party he wishes to espouse, that he is only supportable by doing those dirty acts the less vile refuse to execute."

"Giffard, thunderstruck, lost his usual assurance; and replied, in one single sentence, 'I would spit upon him in a desert!'—which vapid and unmeaning exclamation was his sole retort!"

"Mr. Egan, (one of the roughest-looking persons possible) being at one time a supporter of government, made virulent philippics, in the Irish House of Commons, against the French Revolution. His figure was coarse and bloated, and his dress not over-elegant withal; in fact, he had by no means the look of a member of parliament.

"One evening this man fell foul of a speech of Grattan's; and amongst other absurdities, said in his paroxysm, that the right honourable gentleman's speech had a tendency to introduce the guillotine into the very body of the House; indeed, he almost thought he could already perceive it before him.—('Hear him! Hear him!' echoed from Sir Boyle Roche.) Grattan good-humouredly replied, that the honourable member must have a vastly sharper sight than he had. He certainly could see no such thing: 'but though,' added Grattan, looking with his glass toward Egan, 'I may not see the guillotine, yet methinks I can perceive the executioner.'

"Order! Order!" shouted Sir Boyle Roche: but a general laugh prevented any further observation."

"Colonel Burr, who had been vice-president of America, and probably would have been the next president, but for his unfortunate duel with General Hamilton, came over to England, and was made known to me by Mr. Randolph, of South-Carolina (with whom I was very intimate). He requested I would introduce him to Mr. Grattan, whom he was excessively anxious to see. Colonel Burr was not a man of a very prepossessing appearance,—rough-featured and neither dressy nor polished; but a well-informed, sensible man; and though not a particularly agreeable,—yet an instructive companion.

"People in general form extravagant anticipations regarding eminent persons. The idea of a great orator and Irish chief carried with it, naturally enough, corresponding notions of physical elegance, vigour, and dignity. Such was Colonel Burr's mistake, I believe, about Mr. Grattan, and I took care not to undeceive him.

"We went to my friend's house, who was to leave London next day. I announced that Colonel Burr, (from America,) Mr. Randolph and myself, wished to pay our respects, and the servant informed us that his master would receive us in a short time, but was at the moment much occupied on business of consequence. Burr's expectations were all on the alert! Randolph also was anxious to be presented to the great Grattan, and both impatient for the entrance of this Demosthenes. At length, the door opened, and in hopped a small bent figure,—meagre, yellow, and ordinary; one slipper and one shoe; his breeches' knees loose;

his cravat hanging down; his shirt and coat-sleeves tucked up high, and an old hat upon his head.

"This apparition saluted the strangers very courteously:—asked (without any introduction) how long they had been in England, and immediately proceeded to make inquiries about the late General Washington and the revolutionary war. My companions looked at each other:—their replies were costive, and they seemed quite impatient to see Mr. Grattan. I could scarcely contain myself; but determined to let my eccentric countryman take his course; who appeared quite delighted to see his visitors, and was the most inquisitive person in the world. Randolph was far the tallest, and most dignified-looking man of the two, gray-haired and well-dressed: Grattan therefore, of course, took him for the vice-president, and addressed him accordingly. Randolph at length begged to know if they could shortly have the honour of seeing Mr. Grattan. Upon which, our host, (not doubting but they knew him,) conceived it must be his son James for whom they inquired, and said, he believed he had that moment wandered out somewhere, to amuse himself.

"This completely disconcerted the Americans, and they were about to make their bow and their exit, when I thought it high time to explain; and, taking Colonel Burr and Mr. Randolph respectively by the hand, introduced them to the Right Honourable Henry Grattan.

"I never saw people stare so, or so much embarrassed! Grattan himself now perceiving the cause, heartily joined in my merriment;—he pulled down his shirt-sleeves, pulled up his stockings; and, in his own irresistible way, apologized for the *outré* figure he cut, assuring them he had totally overlooked it, in his anxiety not to keep them waiting; that he was returning to Ireland next morning, and had been busily packing up his books and papers in a closet full of dust and cobwebs! This incident rendered the interview more interesting: the Americans were charmed with their reception; and, after a protracted visit, retired highly gratified, whilst Grattan returned again to his books and cobwebs."

It must not be inferred from this story, that Grattan was *ordinary*, in the sense in which the term is employed by our author. His stature was low, but his head altogether remarkable and imposing. Whatever his dishabille may have been on this occasion, he generally, in London at least, dressed sufficiently well, according to the fashion of the day. Sir Jonah is not accurate in his description of Colonel Burr; and the Mr. Randolph, to whom he refers, was not of South-Carolina, but of Virginia—D. M. Randolph, formerly United States' marshal for his district. We had the good fortune, in the same year, several times, to be in the company of the Irish Demosthenes. His manners were polished and benign; he seemed to love the topic of the United States, and spoke with the utmost respect of our institutions. Whenever he dwelt upon any advantage of liberty, independence, and domestic condition, belonging to a foreign country, it was with a dash of melancholy which referred to his own, that sensibly heightened the interest and reverence inspired by his genius and reputation. The presence and excesses of the British soldiery in Ireland, and the wars and usurpations of Napoleon, had strongly affected his imagination, with regard to military power and array. We could not readily forget the solemnity of his congratulations, after he was told, in answer to one of his inquiries, that but very few regular troops were seen in the United States. We happened to visit Ireland in the same summer that he delivered

his famous speech, in the British House of Commons, in favour of the ministerial measure of the "Irish Insurrection Bill." Not only was his popularity impaired among his countrymen by this concurrence, but a degree of indignation was expressed against him, which filled us with surprise and sorrow; for, that very speech evidently proceeded from an engrossing, controlling love of country, such as has ennobled the conduct of very few statesmen in any age or nation. The nature of the bill naturally exasperated his irascible and suffering countrymen; in the first commotion of feeling, they were ready to accuse its abettor of having foolishly or treacherously abandoned their cause. They toasted *Sheridan*, in contradistinction to the recreant Grattan—an injustice which has been repaired by the estimate which they now make of his intentions and services. The influence of his former elevation and course, was perceptible in the British House of Commons, in the circumstance which we noted, that most of the Irish members, who took part in the debates, addressed themselves to him, rather than to the speaker of the body. It was an involuntary and most edifying homage. We annex two short extracts from the speech just mentioned, in order to show that Grattan was aware of the consequences we have stated, and to repeat sentiments which designate the man, and should actuate every representative of the people.

"He had said, that he would vote for this bill, because he was sorry to say there existed some necessity for it. He knew it was extremely unpopular in Ireland, from the hundreds of letters he himself had received upon the subject; but still, under the existence of some necessity, he was ready to vote for the bill, and to take his own full share of the odium and unpopularity attached to it. This was a time in which every man should be prepared to sacrifice, not only some portion of his liberty, but of his popularity also, for the safety of his country: he was ready to sacrifice both, for the good of the state, *because he would rather give up his situation as a representative of his country, than sacrifice public security at the shrine of popularity.* He was assured by his right hon. friend near him (Mr. Elliot, the late secretary for Ireland), that there were in various parts of Ireland, secret nocturnal meetings of a dark and dangerous nature. This called for the bill, and he would vote for it."

"The question in Ireland now had nothing to do with religious conflict, or republican principle, but was simply this, whether Ireland should continue a portion of the British empire; or become—not a portion of France—but absolutely nothing: for annihilation would be her fate under French conquest. He knew very well, France would have her spies in Ireland, to create a French party, and to endeavour to foment a French connexion, first by coquetting—but with a certain view to meretricious intercourse. This was the danger he most deprecated, and against the possibility of which he desired to caution that house, and to warn his countrymen."

"I shall conclude with giving my support to the bill. I know my conduct may, in this case, be unpopular amongst many of my countrymen; but *I never will capitulate with popular error, though I shall ever respect popularity when attendant on public virtue.*"

In the period of Sir Jonah's youth, the common people of Ireland divided the gentry into three classes, and "treated each class according to the relative degree of respect to which they deemed it to be entitled." They separated them thus—*half-mounted gentlemen*; gentlemen *every inch of them*; and gentlemen *to the back-bone*. The first were the independent yeomanry, who rode good horses, wore buckskin breeches, and flourished massive whips, with one end of which, by prescriptive authority, they broke heads "as circumstances might require," and with the other, kept the ground clear at races and all public field sports. The second class—the gentlemen *every inch of them*—were of excellent but impoverished families, and ruled at elections and county meetings. The third were of the oldest and purest pedigree, and transcendently great with the peasantry, with whom their word was law. These distinctions had lost much of their difference and force, when we traversed Ireland; but the devotion or submissiveness of the lower to the higher ranks was still more general and obsequious than that which prevailed, in the same relations, in the middle and southern kingdoms of the Continent. It was the more sensible and irksome, from the stout aspect and independent tone of even the common labourers on the other side of the Irish Channel. Abusive epithets were lavished, and blows inflicted, by the well-dressed, upon the Irish vulgar and menials, which were as patiently borne as if usual and lawful, but which would have been instantly resented in some way, in England, if not violently retorted. The lads, of all ages, who happened to be out on the main roads, bowed to the *king's arms* painted on the mail coaches, so humbly as to excite pity and regret in the stranger, while he was compelled to smile at their earnestness and simplicity. Whatever there is abject and degrading in the manners upon which we have here touched, is imputable not merely to the wretched social and domestic condition, and political treatment, of the lower Irish, but in part to the overweening and inconsiderate habits of the more elevated and fortunate, who should labour to rectify the spirit of their countrymen, by restraining their own hands and tongues. Our author scatters characteristic anecdotes and traits of the peasantry, of which we copy the following as samples:

"I have often heard it remarked and complained of, by travellers and strangers, that they never could get a true answer from any Irish peasant as to *distances*, when on a journey. For many years I myself thought it most unaccountable. If you meet a peasant on your journey, and ask him how far, for instance, to Ballinrobe? he will probably say it is '*three short miles*.' You travel on, and are informed by the next peasant you meet, 'that it is *five long miles*.' On you go, and the next will tell 'your honour' it is '*four miles*, or about that same.' The fourth will swear 'if your honour stops at *three miles*, you'll never get there!' But, on pointing to a town just before you, and inquiring what place that is, he replies,—

" 'Oh! plaze your honour, that's Ballinrobe, sure enough!'

" 'Why you said it was more than three miles off!'

" 'Oh yes! to be sure and sartin, that's from my *own* cabin, plaze your honour. We're no scholars in this country. Arrah! how can we tell any distance, plaze your honour, but from our own *little cabins*? Nobody but the schoolmaster knows that, plaze your honour.'

" Thus is the mystery unravelled. When you ask any peasant the distance of the place you require, he never computes it from where you *then are*, but from his *own cabin*; so that, if you asked twenty, in all probability you would have as many different answers, and not one of them correct. But it is to be observed, that frequently you can get no reply at all, unless you understand *Irish*."

" The Irish peasant, also, never answers any question directly: in some districts, if you ask him where such a gentleman's house is, he will point and reply, 'Does your honour see that large house there, all amongst the trees, with a green field before it?'—You answer, 'Yes.' 'Well,' says he, 'plaze your honour that's *not it*. But do you see the big brick house with the cow-houses by the side of that same, and a pond of water?'

" 'Yes.'

" 'Well, plaze your honour, *that's not it*. But, if you plaze, look quite to the right of that same house, and you'll see the top of a castle amongst the trees there, with a road going down to it betune the bushes.'

" 'Yes.'

" 'Well, plaze your honour, *that's not it* neither—but if your honour will come down this bit of a road a couple of miles, I'll show it you *sure enough*—and if your honour's in a hurry, I can run on *hot foot*, and tell the squire your honour's *galloping after me*. Ah! who shall I tell the squire, plaze your honour, is coming to see him? he's my own landlord, God save his honour day and night!'

Sir Jonah half complains that an Irish inn has been an eternal subject of ridicule, to every foreign writer upon the habits and appearances of Ireland; yet he acknowledges that the inns of his country were, in the early period of his life, "a composition of slovenliness, bad meat, worse cooking, and few vegetables." Matters had already grown more tolerable, some eighteen years ago, as we can testify. The hotels in the principal cities were well supplied, though not very regularly or elegantly administered. In the smaller towns, however, they were, in general, extremely bad and grotesque. We remember that at Carlow, finding it difficult to chew a thoroughly burnt and dried mutton-chop, we uttered, in the despair of hunger, some querulous exclamation; whereupon, the waiter approached, and whispered, with a roguish look, but honest sympathy,—"*It is bad enough, and the de'il a bit tinderer was ever got in this house.*" If you want to satisfy the mere craving of the stomach, you have but to enter the hovel of the peasant,—leaping over the puddle, pigs, and children, at the door,—and you will be invited to share in the mess of milk and "*royal Irish potato*," with a welcome that makes still better sauce than hunger.

Our author soon jumps from the topic of the peasantry and inns, to that of the rebellion of 1798. Although we have already quoted much from his first volume, we cannot refrain from tran-

scribing a few of his pages on this head, embracing occurrences of historical as well as romantic personal interest:—

"I dined at the house of Lady Colclough (a near relative of Lady Barrington,) in the town of Wexford, in April, 1798. The company, so far as I recollect, consisted of about seventeen persons, amongst whom were several other of Lady B.'s relatives, then members of the grand jury: Mr. Cornelius Grogan, of Johnstown, a gentleman of very large fortune, who had represented the county; his two brothers, both wealthy men; captain Keogh, afterwards rebel governor of Wexford, the husband of Lady B.'s aunt; the unfortunate John Colclough, of Tintern, and the still more unfortunate Mr. Colclough; Counsellor John Beauman; Counsellor Bagenal Harvey, afterwards the rebel generalissimo; Mr. William Hatton, and some others. The conversation after dinner turning on the distracted state of the country, became rather too free, and I begged some of the party to be more moderate, as our ways of thinking were so different, and my public situation did not permit me, especially at that particular period, to hear such strong language: the loyalists amongst us did not exceed four or five.

"The tone of the conversation was soon lowered, but not before I had made up my mind as to the probable fate of several in company, though I certainly had no idea that, in little more than a month, a sanguinary rebellion would desolate my native land, and violent deaths, within *three* months, befall a great proportion of that joyous assemblage. I had seen enough, however, to convince me that all was not right; and that, by plunging one step further, most of my relatives and friends would be in imminent danger. The party however broke up; and next morning, Mr. Beauman and myself, happening to meet on the bridge, talked over the occurrences of the previous day, uniting in opinion as to the inauspicious aspect of things, and actually proceeding to make out a list of those amongst the dinner-party whom we considered likely to fall victims!—and it so turned out that *every* one of our predictions was verified.

"Bagenal Harvey, (already mentioned in this work) who had been my school-fellow and constant circuit-companion for many years, laughed, at Lady Colclough's, at my political prudery; assured me I was totally wrong in suspecting him; and insisted on my going to Bargay Castle, his residence, to meet some old Temple friends of ours on the ensuing Monday;—my relative Captain Keogh was to be of the party.

"I accordingly went there to dinner, but that evening proved to me one of great uneasiness, and made a very disagreeable impression both on my mind and spirits. The company I met included Captain Keogh; the two unfortunate Counsellors Sheers, who were both hung shortly afterwards; Mr. Colclough, who was hung on the bridge; Mr. Hay, who was also executed; Mr. William Hatton, one of the rebel directory of Wexford, who unaccountably escaped; and a gentleman of the bar whose name I shall not mention, as he still lives.

"The entertainment was good, and the party cheerful. Temple freaks were talked over; the bottle circulated: but, at length, Irish politics became the topic, and proceeded to an extent of disclosure which utterly surprised me. With the Messrs. Sheers (particularly Henry) I had always been on terms of the greatest intimacy: I had extricated both of them not long before from considerable difficulty, through the kindness of Lord Kilwarden; and I had no idea that matters wherein they were concerned had proceeded to the lengths developed on that night. The probability of a speedy revolt was freely discussed, though in the most artful manner, not a word of any of the party committing themselves: but they talked it over as a result which might be expected from the complexion of the times and the irritation excited in consequence of the severities exercised by the government. The chances of success, in the event of a rising, were openly debated, as were also the circumstances likely to spring from that success, and the examples which the insurgents would in such a case probably make. All this was at the same time talked over, without one word being uttered in favour of rebellion:—a system of caution which, I afterwards learned, was much practised for the purpose of gradually making proselytes without alarming them. I saw through it clearly, and here my presentiments came strong upon me. I found

myself in the midst of absolute though unavowed conspirators. I perceived that the explosion was much nearer than the government expected; and I was startled at the decided manner in which my host and his friends spoke.

"Under these circumstances, my alternative was evidently to quit the house or give a turn to the conversation. I therefore began to laugh at the subject, and ridicule it as quite visionary, observing jestingly to Keogh—'Now, my dear Keogh, it is quite clear that you and I, in this famous rebellion, shall be on different sides of the question; and of course one or the other of us must necessarily be hanged at or before its termination—I upon a lamp-iron in Dublin, or you on the bridge of Wexford. Now, we'll make a bargain!—if we beat you, upon my honour I'll do all I can to save your neck; and if your folks beat us, you'll save me from the honour of the lamp-iron!'

"We shook hands on the bargain, which created much merriment, and gave the whole after-talk a cheerful character; and I returned to Wexford at twelve at night, with a most decided impression of the danger of the country, and a complete presentiment that either myself or Captain Keogh would never see the conclusion of that summer.

"I immediately wrote to Mr. Secretary Cooke, without mentioning names, place, or any particular source of knowledge; but simply to assure him that there was not a doubt that an insurrection would break out at a much earlier period than the government expected. I desired him to ask me no questions, but said that he might depend upon the fact; adding, that a commanding force ought instantly to be sent down to garrison the town of Wexford. 'If the government,' said I, in conclusion, 'does not attend to my warning, it must take the consequences.' My warning was not attended to; but his Majesty's government soon found I was right. They lost Wexford, and might have lost Ireland, by that culpable inattention.

"The result need scarcely be mentioned; every member of that jovial dinner-party (with the exception of myself, the barrister before alluded to, and Mr. Hatton,) was executed within three months! and on my next visit to Wexford, I saw the heads of Captain Keogh, Mr. Harvey, and Mr. Colclough, on spikes over the court-house door.

"Previously to the final catastrophe, however, when the insurgents had been beaten, Wexford retaken by our troops, and Keogh made prisoner, I did not forget my promise to him at Bargay Castle. Many certificates had reached Dublin of his humanity to the royalists whilst the town of Wexford was under his government, and of attempts made upon his life by Dixon, a chief of his own party, for his endeavouring to resist the rebel butcheries. I had intended to go with these directly to Lord Camden, the Lord Lieutenant; but I first saw Mr. Secretary Cooke, to whom I related the entire story, and showed him several favourable documents. He told me I might save myself the trouble of going to Lord Camden; and at the same time handed me a dispatch received that morning from General Lake, who stated that he had thought it necessary, on recapturing Wexford, to lose no time in 'making examples' of the rebel chiefs; and that accordingly, Mr. Grogan, of Johnstown, Mr. Bagenal Harvey, of Bargay Castle, Captain Keogh, Mr. Colclough, and some other gentlemen, had been hanged on the bridge and beheaded the previous morning.

"I felt shocked beyond measure at this intelligence,—particularly as I knew Mr. Cornelius Grogan (an excellent gentleman, seventy years of age, of very large fortune and establishments,) to be no more a rebel than myself. Being unable, from infirmity, to walk without assistance, he was led to execution.

"I was at all times ready and willing to risk my life to put down that spirit of mad democracy which sought to subvert all legal institutions, and to support every true principle of the constitution which protected us: but at the same time I must in truth and candour say, (and I say it with reluctance,) that, during those most sanguinary scenes, the brutal conduct of certain frantic royalists was at least on a parallel with that of the frantic rebels.

"A short time after the recapture of Wexford, I traversed that county, to see the ruins which had been occasioned by warfare. Enniscorthy had been twice stormed, and was dilapidated and nearly burned. New Ross showed most melanco-

ly relics of the obstinate and bloody battle of full ten hours' duration, which had been fought in every street of it. The numerous pits crammed with dead bodies, on Vinegar Hill, seemed on some spots actually elastic as we stood upon them; whilst the walls of an old windmill on its summit appeared stained and splashed with the blood and brains of the many victims who had been piked or shot against it by the rebels. The court-house of Enniscorthy, wherein our troops had burned alive above eighty of the wounded rebels; and the barn of Scullabogue, where the rebels had retaliated by burning alive above 120 Protestants—were terrific ruins! The town of Gorey was utterly destroyed,—not a house being left perfect; and the bodies of the killed were lying half-covered in sundry ditches in its vicinity. It was here that Colonel Walpole had been defeated and killed a few days before.

“An unaccountable circumstance was witnessed by me on that tour, immediately after the retaking of Wexford. General Lake, as I have before mentioned, had ordered the heads of Mr. Grogan, Captain Keogh, Mr. Bagenal Harvey, and Mr. Colclough, to be placed on very low spikes, over the court-house door of Wexford. A faithful servant of Mr. Grogan had taken away his head; but the other three remained there when I visited the town. The mutilated countenances of friends and relatives, in such a situation, would, it may be imagined, give any man most horrifying sensations! The heads of Mr. Colclough and Harvey appeared black lumps, the features being utterly undistinguishable; that of Keogh was uppermost, but the air had made no impression on it whatever! His comely and respect-inspiring face (except the *pale* hue, scarcely to be called *livid*), was the same as in life: his eyes were not closed—his hair not much ruffled: in fact, it appeared to me rather as a head of chiselled marble, with glass eyes, than as the lifeless remains of a human creature:—this circumstance I never could get any medical man to give me the least explanation of. I prevailed on General Hunter, who then commanded in Wexford, to suffer the three heads to be taken down and buried.”

Not less than seventy or eighty of Sir Jonah's pages are allotted to the subject of *Duelling*; and the extent and tactics of that abominable usage in Ireland, were such as fully to warrant the appropriation of even a larger space to its extraordinary history. Our author thinks that he may challenge any country in Europe to exhibit such an assemblage of gallant *judicial* and *official* antagonists, at fire and sword, as he produces. He states, that *two hundred and twenty-seven* memorable and official duels were fought, during his grand climacteric. His list includes most of the great officers of the law, and of the Irish government. The number of killed and wounded amongst the bar, was great, and more considerable than in any other of the learned professions. About the year 1777, the FIRE-EATERS, or duellists, were in the highest repute; manslaughter in an *honest* way—that is, when it was not known which of the combatants would be killed—entered into the education of all the gentry; and gentlemen “of the very first house—of the first and second cause,” became so numerous and inflammable, that it is only difficult to conceive how social intercourse could be maintained at all, supposing Sir Jonah's representations to be exact. A “savage nobleman,” Lord Clanmorris, horsewhipped Mr. Curran in the streets of Dublin; counsellor O'Callaghan persuaded Curran “to keep quiet in the affair;” very soon after the counsellor had thus

played the anomalous part of pacificator, his own brains were *honestly* scattered by a crack attorney; and the good people of Dublin pronounced this end to be a *judgment* upon O'Callaghan, for having persuaded his friend Curran to avoid the same risk! There was a huge exterminator, called Jemmy Keogh, whom Barrington "knew extremely well," who had the reputation, in the main, of a peacemaker, because he did not like to see anybody fight but himself, and who—sweet philanthropist!—"never killed any man that did not deserve it." Certain parts of our Western Country merited, about the end of the last century, almost as lofty a renown, for their *fire-eaters* and their honourable affrays, as ever was earned by the Emerald Isle. We have heard from good authority, that Tennessee and Kentucky possess, between them, an unquestionable match for Jemmy Keogh; a genuine Hector, who has shot with impunity seven or eight disagreeable acquaintances. He carries constantly in his pocket a loaded pistol, which he *clicks* when he hears from another an opinion or sentiment which he does not like—the *click* is a warning to the speaker to beware. Sometimes, the hero is anticipated in his designs; being knocked down and dragged away, in order to give the company scope for free discussion. We presume that he is one of a very few survivors of the old Western school, whose regulations for particular instances of duelling are now current in the newspapers. The engagement of the seconds *to shoot instantly* either of the parties observed to violate the regulations, is a refinement upon the old Irish code, which, though it be somewhat long, we must be permitted to transcribe from Sir Jonah's book, for the lasting edification or instruction of the American *fire-eaters*.

"The practice of duelling and points of honour settled at Clonmell summer assizes, 1777, by the gentlemen delegates of Tipperary, Galway, Mayo, Sligo, and Roscommon, and prescribed for general adoption throughout Ireland.

"**RULE 1.**—The first offence requires the first apology, though the retort may have been more offensive than the insult: example; A tells B he is impertinent, &c. B retorts, that he lies: yet A must make the first apology, because he gave the first offence, and then (after one fire) B may explain away the retort by subsequent apology.

"**RULE 2.**—But if the parties would rather fight on, then, after two shots each, (but in no case before,) B may explain first, and A apologize afterwards.

"**N. B.** The above rules apply to all cases of offences in retort not of a stronger class than the example.

"**RULE 3.**—If a doubt exist who gave the first offence, the decision rests with the seconds: if they *won't* decide or *can't* agree, the matter must proceed to two shots, or to a hit, if the challenger require it.

"**RULE 4.**—When the *lie direct* is the *first* offence, the aggressor must either beg pardon in express terms; exchange two shots previous to apology; or three shots followed up by explanation; or fire on till a severe hit be received by one party or the other.

"**RULE 5.**—As a blow is strictly prohibited under any circumstances amongst gentlemen, no verbal apology can be received for such an insult: the alternatives

therefore are—the offender handing a cane to the injured party, to be used on his own back, at the same time begging pardon; firing on until one or both is disabled; or exchanging three shots, and then asking pardon, *without* the proffer of the cane.

“If swords are used, the parties engage till one is well blooded, disabled, or disarmed; or until, after receiving a wound, and blood being drawn, the aggressor begs pardon.

“N. B. A *disarm* is considered the same as a *disable*: the disarmer may (strictly) break his adversary's sword; but if it be the challenger who is disarmed, it is considered as ungenerous to do so.

“In case the challenged be disarmed and refuses to ask pardon or atone, he must not be *killed*, as formerly; but the challenger may lay his own sword on the aggressor's shoulder, then break the aggressor's sword, and say, ‘I spare your life!’ The challenged can never revive that quarrel—the challenger may.

“RULE 6.—If A gives B the lie, and B retorts by a blow, (being the two greatest offences) no reconciliation *can* take place till after two discharges each, or a severe hit; *after* which, B may beg A's pardon humbly for the blow, and then A may explain simply for the lie;—because a blow is *never* allowable, and the offence of the lie therefore merges in it. (See preceding rule).

“N. B. Challenges for undivulged causes may be reconciled on the ground, after one shot. An explanation or the slightest hit should be sufficient in such cases, because no personal offence transpired.

“RULE 7.—But no apology can be received, in any case, after the parties have actually taken their ground, without exchange of fires.

“RULE 8.—In the above case, no challenger is obliged to divulge his cause of challenge (if private) unless required by the challenged so to do *before* their meeting.

“RULE 9.—All imputations of cheating at play, races, &c. to be considered equivalent to a blow; but may be reconciled after one shot, on admitting their falsehood, and begging pardon publicly.

“RULE 10.—Any insult to a lady under a gentleman's care or protection, to be considered as, by one degree, a greater offence than if given to the gentleman personally, and to be regulated accordingly.

“RULE 11.—Offences originating or accruing from the support of ladies' reputation, to be considered as less unjustifiable than any others of the same class, and as admitting of slighter apologies by the aggressor: this to be determined by the circumstances of the case, but *always* favourably to the lady.

“RULE 12.—In simple unpremeditated *rencontres* with the small sword, or *couteau-de-chasse*, the rule is—first draw, first sheath; unless blood be drawn: then both sheath, and proceed to investigation.

“RULE 13.—No dumb-shooting or firing in the air, admissible in *any* case. The challenger ought not to have challenged without receiving offence; and the challenged ought, if he gave offence, to have made an apology before he came on the ground: therefore, *children's play* must be dishonourable on one side or the other, and is accordingly prohibited.

“RULE 14.—Seconds to be of equal rank in society with the principals they attend, inasmuch as a second may either choose or chance to become a principal, and equality is indispensable.

“RULE 15.—Challenges are never to be delivered at night, unless the party to be challenged intend leaving the place of offence before morning; for it is desirable to avoid all hot-headed proceedings.

“RULE 16.—The challenged has the right to choose his own weapon, unless the challenger gives his honour he is no swordsman; after which, however, he cannot decline any *second* species of weapon proposed by the challenged.

“RULE 17.—The challenged chooses his ground: the challenger chooses his distance: the seconds fix the time and terms of firing.

"RULE 18.—The seconds load in presence of each other, unless they give their mutual honours they have charged smooth and single, which should be held sufficient.

"RULE 19.—Firing may be regulated—first, by signal; secondly, by word of command; or, thirdly, at pleasure—as may be agreeable to the parties. In the latter case, the parties may fire at their reasonable leisure, but *second presents* and *rests* are strictly prohibited.

"RULE 20.—In all cases, a miss-fire is equivalent to a shot, and a *snap* or a *non-cock* is to be considered as a miss-fire.

"RULE 21.—Seconds are bound to attempt a reconciliation *before* the meeting takes place, or *after* sufficient firing or hits, as specified.

"RULE 22.—Any wound sufficient to agitate the nerves and necessarily make the hand shake, must end the business for *that day*.

"RULE 23.—If the cause of meeting be of such a nature that no apology or explanation can or will be received, the challenged takes his ground, and calls on the challenger to proceed as he chooses: in such cases, firing at pleasure is the usual practice, but may be varied by agreement.

"RULE 24.—In slight cases, the second hands his principal but one pistol; but, in gross cases, two, holding another case ready-charged in reserve.

"RULE 25.—Where seconds disagree, and resolve to exchange shots themselves, it must be at the same time and at right angles with their principals.

"If with swords, side by side, with five paces interval.

"N. B. All matters and doubts not herein mentioned will be explained and cleared up by application to the committee, who meet alternately at Clonmell and Galway, at the quarter-sessions, for that purpose.

Crow Ryan, President,
James Keogh, } Secretaries.
Amby Bodkin, }

"Additional Galway Articles.

"RULE 1.—No party can be allowed to bend his knee or cover his side with his left hand; but may present at any level from the hip to the eye.

"RULE 2.—None can either advance or retreat, if the ground be measured. If no ground be measured, either party may advance at his pleasure, even to touch muzzle; but neither can advance on his adversary after the fire, unless the adversary steps forward on him.

"N. B. The seconds on both sides stand responsible for this last rule being *strictly* observed; bad cases having accrued from neglecting of it."

This precise and enlightened digest was rendered necessary, by the multitude of quarrels which arose without "sufficiently dignified provocation:"—the *point of honour* men required a uniform government; and the code thus formed was disseminated throughout the island, with directions that it should be strictly observed by all gentlemen, and kept in their pistol-cases. The rules, with some others, were commonly styled "the thirty-six commandments," and, according to our author, have been much acted upon, down to the present day. Tipperary and Galway were the chief schools of the science of duelling. We remember to have heard, when travelling to the town of the former name in a stage-coach, a dispute between two Irish companions, on the point—which was the most *gentlemanly* county in all Ireland—

Tipperary or Galway? and both laid great stress upon the relative duelling merits of those counties. By the same criterion, Tennessee, Kentucky, Georgia, and South-Carolina, would bear away the palm of gentility among the states of our Union.

The Irish elections were most prolific of duels; at them, as our author says with much *naïveté*, "almost every man, without any very particular or assignable reason, immediately became a violent partisan; and gentlemen often got themselves shot, before they could well tell what they were fighting about." In his first volume, he relates, with signal effect, the melancholy case of Colclough and Alcock, which occurred in 1808, at the general election in Wexford. They were accomplished men, of fortune and distinction; old friends and intimate associates; but happening to become principals in the contest, on opposite sides, they were compelled by their partisans to fight, though no personal offence had been given or received. Alcock shot his friend through the heart, in a ring made by a crowd of spectators, including twelve *county justices*: he gained his election; but, stricken with sorrow and remorse for the death of Colclough, he moped and pined, and gradually sank into imbecility and the grave. His sister, a young lady, who had been well acquainted with his antagonist, also yielded to the influences of grief and horror; lost her reason in consequence, and soon followed him through the shadow of the fatal valley. This is deep and awful tragedy, which Sir Jonah relieves by the recital of various farcical rencontres, to some of which he was a party. With regard to himself, he observes, that "the reader of his dignified list of combatants will surely see no great indecorum in an admiralty judge having now and then exchanged broadsides, more especially as they did not militate against the law of nations." The law of God and his own land, against murder in any form, and the force of example in the ermined administrators of the law, do not seem to have occurred to the official amateur; of whom we must hint, by the way, that he nowhere betrays any notion or stamp of *morality*, such as tender or religious consciences are apt to cherish. His ludicrous instances of single combat may irresistibly provoke to laughter all his readers; and yet there is scarcely one of the more refined and reflecting class, who will not deem the tales of burlesque, as well as those of horror, evidences of a lamentable backwardness in true civilization; or rather, of a state of society at least half savage and silly in essence, though polished in some points of form, and holding rank in some other respects with the more advanced nations of Christendom. The Indian of the Eastern Archipelago who *runs a muck*, or the Indian of the western world, who, in the fury of drunkenness, tomahawks all around him, and makes a sanguinary revenge the business of his life, is not in fact more of a barbarian, nor more

foolish and despicable, than the professed *fire-eater*, the "blaze away boy," the bully of the pistol—that swaggers, and scowls, and inveighs, relying upon his animal ferocity, or his skill in the use of a deadly weapon—whether he be found in the professional circles or on the election-grounds of Ireland, or in the Congress of the United States.

Our author is oftener gay than serious in his strain; but what is grave, of his matter, may be safely extolled in some instances. We should quote the whole of his chapter concerning *George Hartpole*, and much of his account of Mrs. Jordan the actress, if we could spare room for extracts so large. These parts of his second volume are uncommonly well wrought, and deeply pathetic. Hartpole was one of his early friends; the master of Shrewl Castle; nephew of the Earl of Aldborough; rich, brave, generous, sincere, and "completely the gentleman in mien and manners." He held a commission in the army, and when quartered with his regiment at Galway in Ireland, sustained an accidental injury in one of his arms, which confined him to his bed or chamber for a considerable period, in a small tavern, where he was chiefly attended by two daughters of his host. Of these, the younger, Mary, was "*rather* well looking," and "as mild and unassuming as, from her low occupation and habits of life, could be expected." She became enamoured of the patient; his sensibility glowed when he discovered this circumstance, and the elder sister conceived the project of inveigling him into marriage with Mary. On his recovery, he resolved to fly, aware of his danger; he was overtaken by the sisters, just as he was about to embark from Dublin; Mary swooned and sobbed—wine was ordered—George drank glass after glass—a priest appeared—and he arose, on the following morning, a husband, to his surprise and consternation. Instead of escaping at once, he suffered himself to be conducted back to Galway by the sisters, and there passed two years with them, lost to his proper employments and connexions, miserably conscious of the ignominy of his bonds, and alternately forming and breaking resolutions to reassume his station in society, and annul a marriage, illegal as solemnized by a Popish clergyman. The gentle Mary became, from jealousy, a furious termagant, that daily lavished gross and violent abuse on the passive and wretched Hartpole, until at length, attempting to stab him with a knife, she left him no alternative to save his life from her rage, but a precipitate and final flight. Before the suit which he commenced for a decree of divorce was determined, he fell in love with a handsome girl of eighteen, the daughter of a Colonel Otway, a man of some rank. Hartpole espoused Maria Otway, but soon grew tired of Castle Otway. Maria did not absolutely love him, though otherwise an unexceptionable wife; she left the parental mansion with a visible reluctance, that deeply cha-

grined the husband. Not long after their arrival at his patrimonial domain, his morbid state of mind produced a vague jealousy, which "had no fixed object, but wandered from person to person," We shall tell the affecting sequel in the words of Sir Jonah:—

"At Shrewl, Mrs. Otway perceived George's ideal malady; she was a silly woman who fancied she was wise, and thought she never could do wrong because she always intended to do right. She proposed to Maria a most desperate remedy to cure her husband of his jealousy, though she did not reflect that it might probably be at the expense of his existence, and certainly of her daughter's duty. They conspired together, and wrote two or three letters directed to Mrs. Hartpole, without signature, but professing love and designating meetings. These they took measures to drop so as Hartpole might accidentally find some of them, and thus they thought in the end to convince him of his folly, and laugh him out of his suspicions.

"The result may be easily anticipated by those who have read with attention the character of the husband. He became outrageous; the developement did not pacify him; and his paroxysm was nearly fatal. Maria was in consequence but little better, and the unexpected result of her own injudicious conduct nearly distracted the unhappy mother. But it was too late to retrieve their error: the die was thrown; Hartpole was inflexible; and the first I heard of it was Maria's departure to her father's, and a final separation:—and thus, after a marriage of little more than eighteen months, that ill-starred young man, completely the sport of fortune, became once more solitary! Labouring under the false idea that he could soon conquer his attachment, he made Maria an ample separate maintenance, and determined to go to Lisbon, where he thought a change of scene might, perhaps, restore his peace, and the climate his shattered constitution.

"Before he sailed, I endeavoured in vain to reconcile them. She did not love him well enough to risk a further residence at Shrewl, in the absence of her connexions; and his mind was case-hardened against the whole family from which she sprang. His reasons to me for parting from her finally, were at least plausible.

"*'I acquit her at once,'* said he, *'of ever having shown a symptom of impropriety, nay even of giddiness: there I was wrong, and I own it: but she has proved herself perfectly capable of, and expert at, deception; and the woman that has practised deception for my sake would be equally capable of practising it for her own. So far from curing my error, she has confirmed me in it; and when confidence ceases, separation ought to ensue.'*

"Hartpole shortly after embarked for Portugal, and only returned to terminate his short career by a lingering and painful death.

"On his arrival at Lisbon without any amendment either in mind or body, I felt, and I am sure he did himself, that the world was fast receding from him. The ruffianly manners of the person whom he had chosen as a led captain, were little congenial to his own characteristic mildness. He had, however, a most faithful valet; and after a few posts, I conceived, from his letters, that his spirits had very much improved, when a circumstance occurred, which, had he been in health, would have been merely ludicrous; but which the shattered state of his nerves rendered him almost incapable of bearing up against.

"On his marriage he had given the commission he then held to Mr. Otway, his brother-in-law (I believe, now, General Otway); on his separation, however, he determined to resume the profession, and accordingly purchased a commission in a regiment of the line then raising by his uncle the late Lord Aldborough; and he had been gazetted previously to his departure.

"After he had been a short time at Lisbon, some mischievous person, for some mischievous object, informed his uncle he had been dead a fortnight! and, without further inquiry, that nobleman resold George's commission, and an announcement appeared in the newspapers, that Hartpole had fallen a victim at Lisbon, to

consumption, the rapid progress of which had rendered his case hopeless even before he quitted Ireland,—adding the name of the party who had succeeded him in his regiment.

“Now the fact is, that the climate of Lisbon had been of great service to his health; and he was quickly recovering strength and spirits, when taking up, one day, an English paper, he read the above-mentioned paragraph.

“His valet described to me coarsely the instantaneous effect of this circumstance on his master's mind. It seemed to proclaim his fate by anticipation:—his commission was disposed of, under the idea that he was actually dead; every melancholy reflection crowded upon him; he totally relapsed; and I firmly believe that paragraph was his death-blow. After lingering several months longer, he returned to England, and I received a letter requesting me to meet him without delay at Bristol, and stating that he had made his will. I immediately undertook the journey, and took him over a horse which I conceived adapted to him at that time. His sister (the present Mrs. Bowen, of Rutland-square) was with him. His figure was emaciated to the last degree, and he was sinking rapidly into the grave. He was attended by a very clever young physician of that place, a Doctor Barrow, and I soon perceived that the doctor had fallen a victim to the charms of Miss Hartpole.

“The patient had, however, declined but little in appetite, when the disorder suddenly fixed itself in his throat, and he ceased to have the power of eating: he now entirely gave himself up as a person who must die of hunger. This melancholy scene almost distracted me, and produced a most unpleasant affection of the head. The doctor gave us little consolation; and Hartpole himself, though reduced to such a state, was really the most cheerful of the party, evincing a degree of resignation at once heroic and touching. His will had been prepared by Mr. Lemans of Bristol, (to me a perfect stranger,) and executed whilst I was in Ireland: he informed us all that I was joint executor with two of his uncles.

“On the morning of Hartpole's death, he sent for me to rise and come to him. I found him in an *agony of hunger*—perspiration in large drops rolling down his face. He said, neither food nor liquid could descend into his stomach; that his ribs had contracted inwards, as if convulsively drawn together; and that he was in great pain. I cannot describe my emotion! He walked about his room and spoke to me earnestly on many subjects, on some of which I have been, and ever shall be, totally silent. At length he called me to the window:—‘Barrington,’ said he, ‘you see at a distance a very green field?’ ‘Yes,’ I replied. ‘Well,’ continued George, ‘it is my dying request that I may be buried there *to-morrow evening*.’

“He spoke so calmly and strongly, that I felt much surprised. He observed this, and said, ‘It is true: *I am in the agonies of death*.’ I now called in the doctor and Hartpole's servant: the invalid sat down upon the bed; and when he took me by the hand, I shuddered, for it was burning hot, whilst every nerve and sinew seemed to be in spasmodic action. I never had been in collision with a dying person before: he pressed my hand with great fervour, and murmured, ‘My friend!’—these were the last words I heard him utter. I looked in his face: his eyes were glazed—his lips quivered—he laid his head on the pillow, and expired.

“This awful scene, to me so perfectly new, overpowered me, and for a few minutes I was myself insensible.

“I disobeyed Hartpole's injunctions respecting his funeral; for I had his body enclosed in a leaden coffin and sent to be interred at Shrewl Castle, in the cemetery of his ancestors, wherein his remains were not admitted without much reluctance by his ungrateful sister and her husband, who resided there in his absence.

“Thus ended Hartpole's life, and thus did a family become extinct, of the most respectable description. I neither looked to nor expected any legacy from my friend, beyond a mourning-ring. He left numerous other bequests, including a considerable one to Mary Steven, whose fate I never heard.

“The sequel of Maria Otway's history was not much less melancholy than that of her unhappy partner, as she died prematurely, by the most affecting of all deaths—in childbirth. I saw her after the separation, but never after George's

decease. As I predicted, her style of beauty was not calculated to wear well; and even before she was out of her teens, Maria Otway *had been* much handsomer. Her manner became more studied—of course, less graceful: and that *naïveté*, which had rendered her so engaging to my friend, was superseded by the cold affectation which fashionable manners prescribe.

"Maria, I think, *never* had been attached to Hartpole; and within two years after his decease, she made another and a most unexceptionable match—namely, with Mr. Prittie, the present member for Tipperary: but Providence seemed to pursue fatally even the relict of my friend; and at the age of twenty-three, death cut off the survivor of that union which an unconcerned spectator would have deemed so auspicious. It is said, but I do not wish to be understood as vouching the report, that after Mrs. Prittie's death, a prediction of its occurrence was found written by herself six months before, designating the precise time of her departure."

It may be presumed that every person who has read any portion of the recent theatrical annals of Great Britain, is acquainted with the name and character of Mrs. Jordan, the Euphrosyné of the British stage. She became the mistress of the Duke of Clarence, by whom she had a large family of children, and with whom she lived in ostensible fond union for many years. The Duke liberally educated, protected, and established her offspring; some of whom, indeed, have formed highly advantageous and elevated alliances. At length, however, a sudden and total separation took place between her, her "illustrious protector," and her family. The cause is still a profound mystery. Our author, Sir Jonah, knew her intimately, in her best days; had frequent access to the Duke's domestic circle, where he saw her beloved and honoured, and surrounded by splendour and luxury; and he pretends to know, while he refuses to disclose, the reasons of that fatal separation which we have just mentioned. They were, he asserts, no way dishonourable to either party; but the Duke's friends have proclaimed by authority, in order to vindicate him from reproach, that she owed her ultimate wretchedness to her own imprudence and indiscretion. Be this as it may, the catastrophe was strange, touching, and admonitory; and implied something more than indiscretion, or the belief of more, on one side or the other. Let the moralist of either sex compare the records of Mrs. Jordan's youthful charms and joyous spirits, her triumphs on the stage and in the green-room, her great pecuniary gains, her long career as the idol of the Royal Duke, and the situation of her children—with her final destiny, as it is narrated in the following quotation from her sympathetic and sentimental friend Barrington:—

"The days of Mrs. Jordan continued to pass on alternately in the exercise of a lucrative profession, and the domestic enjoyment of an adoring family, when circumstances (which, because *mysterious*, the public construed necessarily to imply culpability somewhere or other) occasioned a separation:—certainly an event most unexpected by those who had previously known the happy state of her connexion. In me it would be worse than presumption to enter into any detail on a subject at once so private, so delicate, and so interesting. Suffice it to say, that of all the accounts and surmises as to that event in which the public prints were pleased to indulge themselves, not one that came under my eye was

true: indeed, there was scarcely a single incident whereto that separation was publicly attributed, that had any degree of foundation whatsoever. I will, however, repeat, that the separation took effect from causes no way dishonourable to either party: that it was not sought for by the royal personage, nor necessary on the part of the lady.

"General Hawker, one of the late King's aids-de-camp, had married Miss Jordan; and in the punctilious honour and integrity of this gentleman, every body who knew and knows him did and does rely with unmixed confidence. Such reliance His Royal Highness evinced by sending, through him, *carte blanche* to Mrs. Jordan, when the separation had been determined on, enabling her to dictate whatever she conceived would be fully adequate to her maintenance, without recurrence to her profession, in all the comforts and luxuries to which she had been so long accustomed; and every thing she wished for was arranged to her satisfaction. Still, however, infatuated with attachment to theatrical pursuits, she continued to accept of temporary engagements to her great profit: and it will perhaps scarcely be credited, that so unsated were British audiences with Mrs. Jordan's unrivalled performances, that even at her time of life, with certainly diminished powers and an altered person, the very last year she remained in England brought her a clear profit of near £7000. I cannot be mistaken in this statement; for my authority could not err on that point. The malicious representations, therefore, of her having been left straitened in pecuniary circumstances, were literally *fabulous*; for to the very moment of her death, she remained in full possession of all the means of comfort—nay, if she chose it, of *luxury and splendour*. Why, therefore, she emigrated, pined away, and expired in a foreign country, (of whose language she was ignorant, and in whose habits she was wholly unversed), with every *appearance* of necessity, is also considered a mystery by those unacquainted with the cruel and disastrous circumstances which caused that unfortunate catastrophe. It is not by my pen that miserable story shall be told.

"When His Royal Highness was informed of the determination that Mrs. Jordan should take up a temporary residence on the continent, he insisted on her retaining the attendance of Miss Ketchley, who for many years had been attached to the establishment at Bushy, and was superintendent and governess of the Duke's children. This lady, therefore, whose sincere attachment had been so long and truly proved, accompanied Mrs. Jordan as her companion, and to the time of her death continued to administer to her comforts—endeavouring, so far as in her lay, by her society and attentions, to solace the mental misery which pressed upon her friend's health and had extinguished her spirits. She was also accompanied by Colonel Hawker, the General's brother: but, as she wished, during her residence in France, to be totally retired, she took no suite. She selected Boulogne as a place of convenient proximity to England; and in a cottage half a mile from that town, awaited with indescribable anxiety the completion of those affairs which had occasioned her departure, rapturously anticipating the happiness of embracing her children afresh after a painful absence.

"After what has been said, the reader will not think it extraordinary that a deep impression was made upon her health—not indeed in the shape of actual disease, but by the workings of a troubled spirit, pondering and drooping over exaggerated misfortunes, and encountering obstacle after obstacle. Estranged from those she loved, as also from that profession the resort to which had never failed to restore her animation and amuse her fancy, mental malady soon communicated its contagion to the physical organization, and sickness began to make visible inroads on the heretofore healthy person of that lamented lady.

"We have seen that she established herself, in the first place, at Boulogne-sur-Mer. A cottage was selected by her at Marquetry, about a quarter of a mile from the gate of the fortress. Often have I since, as if on classic ground, strolled down the little garden which had been there her greatest solace. The cottage is very small, but neat, commodious, and of a cheerful aspect. A flower and fruit garden of corresponding dimensions, and a little paddock (comprising less than half an acre) formed her demesne.

"Mrs. Jordan might have commanded, during the whole period of her continental residence, any sums she thought proper. She had money in the bank, in

the funds, and in miscellaneous property, and had just before received several thousands. But she was become nearly careless as well of pecuniary as other matters, and took up a whim (for it was nothing more) to affect poverty,—thus deceiving the world, and giving, herself, a vantage-ground to the gossiping and censorious.

“Mrs. Jordan’s whole time was passed in anxious expectation of letters from England, and on the English post-days she was peculiarly miserable. We collected from her girl that her garden and guitar were her only resources against that consuming melancholy which steals away even the elements of existence, and plunges both body and mind into a state of morbid languor—the fruitful parent of disease, insanity, and death.”

“After Mrs. Jordan had left Boulogne, it appears that she repaired to Versailles, and subsequently, in still greater secrecy, to St. Cloud, where, *totally* secluded and under the name of Johnson, she continued to await, in a state of extreme depression and with agitated impatience, the answer to some letters, by which was to be determined her future conduct as to the distressing business that had led her to the continent. Her solicitude arose not so much from the real importance of this affair, as from her indignation and disgust at the ingratitude which had been displayed towards her, and which by drawing aside the curtain from before her unwilling eyes, had exposed a novel and painful view of human nature.

“I at that period occupied a large hotel adjoining the Bois de Boulogne. Not a mile intervened between us; yet, until long after Mrs. Jordan’s decease, I never heard she was in my neighbourhood. There was no occasion whatever for such entire seclusion; but the anguish of her mind had by this time so enfeebled her, that a bilious complaint was generated, and gradually increased. Its growth, indeed, did not appear to give her much uneasiness—so dejected and lost had she become. Day after day her misery augmented, and at length she seemed, we were told, actually to regard the approach of dissolution with a kind of placid welcome!

“The apartments she occupied at St. Cloud were in a house in the square adjoining the palace. This house was large, gloomy, cold, and inconvenient; just the sort of place, which would tell in description in a romance. In fact, it looked to me almost in a state of dilapidation. I could not, I am sure, wander over it at night without a superstitious feeling. The rooms were numerous, but small; the furniture scanty, old, and tattered. The hotel had obviously once belonged to some nobleman, and a long, lofty, flagged gallery stretched from one wing of it to the other. Mrs. Jordan’s chambers were shabby: no English comforts solaced her in her latter moments! In her little drawing-room, a small old sofa was the best-looking piece of furniture: on this she constantly reclined, and on it she expired.

“The account given to us of her last moments, by the master of the house, was very affecting: he likewise thought she was poor, and offered her the use of money, which offer was of course declined. Nevertheless, he said, he always considered her apparent poverty, and a magnificent diamond ring which she constantly wore, as quite incompatible, and to him inexplicable. I have happened to learn since, that she gave four hundred guineas for that superb ring. She had also with her, as I heard, many other valuable trinkets; and on her death, seals were put upon all her effects, which I understand still remain unclaimed by any legal heir.

From the time of her arrival at St. Cloud, it appears, Mrs. Jordan had exhibited the most restless anxiety for intelligence from England. Every post gave rise to increased solicitude, and every letter she received seemed to have a different effect on her feelings. Latterly she appeared more anxious and miserable than usual: her uneasiness increased almost momentarily, and her skin became wholly discoloured. From morning till night, she lay sighing upon her sofa.

“At length an interval of some posts occurred, during which she received no answers to her letters, and her consequent anxiety, my informant said, seemed too great for mortal strength to bear up against. On the morning of her death, this impatient feeling reached its crisis. The agitation was almost fearful: her

eyes were now restless, now fixed; her motion rapid and unmeaning; and her whole manner seemed to bespeak the attack of some convulsive paroxysm. She eagerly requested Mr. C * * *, *before* the usual hour of delivery, to *go for her letters* to the post. On his return, she started up and held out her hand, as if impatient to receive them. He told her, *there were none*. She stood a moment motionless; looked towards him with a vacant stare; held out her hand again, as if by an involuntary action; instantly withdrew it, and sank back upon the sofa from which she had arisen. He left the room to send up her attendant, who however had gone out, and Mr. C * * * returned himself to Mrs. Jordan. On his return, he observed some change in her looks that alarmed him: she spoke not a word, but gazed at him steadfastly. She wept not—no tear flowed: her face was one moment flushed and another livid: she sighed deeply, and her heart seemed bursting. Mr. C * * * stood uncertain what to do: but in a minute, he heard her breath drawn more hardly, and as it were sobbingly. He was now thoroughly terrified: he hastily approached the sofa, and leaning over the unfortunate lady, discovered that those deep-drawn sobs had immediately preceded the moment of Mrs. Jordan's dissolution. She was already no more!

"Thus terminated the worldly career of a woman at the very height of her profession, and one of the best-hearted of her sex! Thus did she expire, after a life of celebrity and magnificence, in exile and solitude, and literally of a broken heart! She was buried by Mr. Forster, now chaplain to the ambassador.

"Several English friends at Paris, a few years ago, entered into a determination to remove Mrs. Jordan's body to Père le Chaise, and place a marble over her grave. The subscription, had the plan been proceeded in, would have been ample; but some (I think rather mistaken) ideas of delicacy at that time suspended its execution. As it is, I believe I may say, 'Not a stone tells where she lies!'—But, Spirit of a gentle, affectionate and excellent human being! receive, if permitted, the aspirations breathed by one who knew thy virtues (and who regrets, while he bows to the mysterious Providence which doomed them to so sad an extinction,) for thy eternal repose and happiness!"

About a third of our author's second volume is confined to the story of his residence in France, during the famous *one hundred days*, after Napoleon's return from the island of Elba. He is by no means either so entertaining or instructive on French as on Irish ground: this part of his book is almost dull, and the worst, if we except his chapters on pedigree hunting, and the *Memoranda Poetica*. During the peace of 1814, he sojourned at Havre with his family; and while he was there, came the marvellous intelligence of Bonaparte's landing at Cannes, and the portentous flight of the imperial eagles "from steeple to steeple," towards the French metropolis. The first scene at Havre, which may be taken as an epitome for the whole kingdom, is thus graphically described by Sir Jonah:—

"The dismal faces of the Bourbonites, the grinning ones of the Bonapartists, and the puzzled countenances of the neutrals, were mingled together in the oddest combinations: throughout the town every body seemed to be talking at once, and the scene was undoubtedly of the strangest character, in all its varieties. Joy, grief, fear, courage, self-interest, love of peace, and love of battle—each had its votaries. Merchants, priests, *douaniers*, military officers, were strolling about, each apparently influenced by some distinctive grade of feeling: one sensation alone seemed common to all—that of astonishment.

"The singularity of the scene every moment increased. On the day immediately ensuing, fugitives from Paris, full of news of all descriptions, came in as quick as horses and cabriolets could bring them. Bulletin after bulletin arrived—messenger after messenger! But all the dispatches in any shape official, com-

bined in making light of the matter. The intelligence communicated by private individuals, however, was very contradictory. One, for instance, stated positively that the army had declared *against* Napoleon; another that it had declared *for* him; a third that it had not declared at all! One said that Napoleon was *surrounded*:—"Yes," returned a by-stander, "but it is by his friends!" Towards evening every group seemed to be quite busy making up their minds as to the news of the day, and the part they might think it advisable to take; as for the English, they were frightened out of their wits, and the women had no doubt that they should all be committed to gaol before next morning."

The process, when it was ascertained that Napoleon was actually master of Paris, will remind the reader of the various epithets successively given to the great tiger of the ménagerie:—le grand tigre *royal*—le grand tigre *républicain*—le grand tigre *imperial*; and then again, alternately, *royal*, *imperial*, and *royal*.

"The transformation of things at Havre became complete, and perfect order quickly succeeded the temporary agitation. The tricoloured flag was again hoisted at the port: and all the painters of the town were busily employed in changing the royal signs into imperial ones. One auberge, *Louis le Désiré*, was changed into a *blue boar*: the *Duchesse d'Angoulême* became the *Virgin Mary*: *royal* was new-gilt into *imperial* once more at the lottery offices: *fleurs-de-lis* were metamorphosed, in a single day, into beautiful *spread-eagles*: and the *Duc de Berry*, who had hung creaking so peaceably on his post before the door of an hotel, became, in a few hours, *St. Peter* himself, with the keys of Heaven dangling from his little finger!"

Sir Jonah witnessed the re-installation of Napoleon; the ceremonial at the adoption of the new constitution, and the engagements between the Allies and the French troops in the neighbourhood of Paris, after the sanguinary rout at Waterloo. But these things are much better related by Sir Walter Scott, in his *Life of Napoleon*. The subjoined picture, however, drawn by our author, is striking and instructive:—

"The scene within the barrier of the Champ de Mars must have appeared curious to any Englishman. The troops had been about an hour on the ground after fighting all the evening in the village of Issy: the cavalry had not engaged, and their horses were picketed. The soldiers had got in all directions tubs of water, and were washing their hands and faces which had been covered with dirt—their mouths being quite blackened by the cartridges. In a little time every thing was arranged for a merry-making: some took off their coats, to dance the lighter; the bands played; an immense number of women, of all descriptions, had come to welcome them back; and in half-an-hour after we arrived there, some hundred couples were at the quadrilles and waltzes, as if nothing had occurred to disturb their tranquillity. It appeared, in fact, as if they had not only totally forgotten what had passed that day, but cared not a sou as to what might happen the next.

"Old women, with frying-pans strapped before them, were incessantly frying sliced potatoes, livers, and bacon: we tasted some of these dainties, and found them really quite savoury. Some soldiers, who were tired or perhaps slightly hurt, were sitting in the fosses cooking soup, and together with the venders of bottled beer, &c. stationed on the elevated banks, gave the whole a picturesque appearance. I saw a very few men who had rags tied round their heads; some who limped a little; and others who had their hands in slings: but nobody seemed to regard these, or indeed any thing except their own pleasure. The wounded had been carried to hospitals, and I suppose the dead were left on the ground for the night. The guards mounted at the Champ de Mars were all fresh troops.

"There were few circumstances attending that memorable era, which struck me more forcibly than the miserable condition of those groups of fugitives, who continued every hour arriving in Paris, during the few days immediately succeeding their signal discomfiture at Waterloo. These unfortunate stragglers arrived in parties of two, three, or four, and in a state of utter destitution—most of them without arms, many without shoes, and some almost naked. A great proportion of them were wounded and bandaged: they had scarcely rested at all on their return; in short, I never beheld such pitiable figures."

Sir Jonah Barrington is a *loyalist* and a Protestant; and his testimony, therefore, with regard to the political condition of his country, cannot be suspected, when unfavourable to the British side, of disingenuousness or prejudice. We do not esteem him the most acute of observers, or the deepest of political speculators; but he is not without shrewdness and solidity, and has enjoyed manifold opportunities of seeing and judging correctly. These considerations induce us to notice his political opinions, before we conclude this desultory article. He confesses, in his Preface, that in his public life, he met with but one transaction, which even threatened to make his patriotism overbalance his *loyalty*; and that was "the purchase and sale of the Irish Parliament, called a Union," which he ever "regarded as one of the most flagrant public acts of corruption on the records of history, and certainly the most mischievous to the British empire." To the Union he ascribes what he proclaims to be the main, true cause of "Irish ruin"—extensive *Absenteeism*. "The protecting body (he adds) of the country gentlemen have evacuated Ireland, and in their stead we now find official clerks, griping agents, haughty functionaries, proud clergy, and agitating demagogues." According to our author, the children even of men who rose to wealth and title by the favours of the Irish people, have got disgusted, and renounce for ever their native country, to which they owe their bread. He thinks that no people on earth could be so easily tranquillized and governed as the Irish; and that this desirable end is attainable only by a liberal, humane, and resident aristocracy. And he goes deeper into the case, when he remarks, that neither honourable intentions, nor the establishment of Sunday schools, nor Bible societies, can preserve a people from *starving*; that education is a sorry substitute for food, and that the Irish will never be taught any thing upon an *empty stomach*. We shall cite another passage of his book, which embraces additional and very important heads of evil.

"The people of England, and also of some continental kingdoms, are fully aware of the distracted state of Ireland, but are at a loss to account for it. It is, however, now in *proof*, that twenty-seven years of Union have been twenty-seven years of beggary and of disturbance; and this result, I may fairly say, I always foresaw. The only question now asked is, 'What is to be done?' and the only comment on this question that it is in my power to make is, 'a council of peace is better than a council of war.' Much of the unfortunate state of that country may be attributed to the kindred agency of two causes—namely, fanaticism, in Ireland, and ignorance (I mean, want of information) in Great Britain. The

Irish are deluded by contesting factions, and by the predominance of a couple of watch-words; whilst the great body of the English people know as little of Ireland, (except of its disturbances,) as they do of Kamtschatka."

The questions of the *Union* and *Absenteeism* have been too much discussed, and are too copious and queasy, for us to undertake them in any extent. We incline to the conclusion, that the Union has been beneficial—rather negatively, however, than positively, inasmuch as the Irish Parliament was the instrument of more harm than good, more discredit than honour. It was venal, violent, tumultuous, and bigoted; it subserved more than it counteracted the ministerial squint-eyed malversation: if it contained "resident gentlemen interested in the prosperity and welfare of their country, who promoted useful schemes," it was also infested with numbers completing an executive majority, who were the mere tools of power, or who placed all their concern and hope in the patronage of the court: if it was decorated by some genuine patriots and splendid orators, much of the talent and authority which it contained, was grossly perverted and prostituted; and for this, we have the evidence of those patriots and orators, who were continually denouncing and deploring the predominance of error and corruption. About the year 1777, Mr. Burke stated that in Ireland neither government nor public opinion could do much; that all dominion or efficiency, was in the hands of a few leading persons, and the success of measures undertaken by government, usually depended on the bargains made with a very few men. "The purchase and sale of the Parliament," for the object of *Union*, was the natural climax and consummation of such a state of things. If the separate government had continued, the general condition of the country would, perhaps, have been worse than it is, and *absenteeism* nearly, if not entirely, as extensive and prejudicial as now; for, it has not proceeded solely or mainly from the transfer of legislation to London, but from the inconveniences and insecurity of residence in Ireland, and the various stronger attractions of a life in England, or on the Continent.

While we presume that Ireland has generally gained by the Union, or at least is not the worse for it, we scarcely doubt whether she has not been the loser and the sufferer, by her original connexion with England. If she had remained independent, she might have attained, by other external relations, and internal working, to more diffusive civilization, to greater happiness, concord, and real strength; and she could not have fallen under a more ruthless, galling, contemptuous, and debasing sway, than that of her potent neighbour. The most enlightened men of all religious or political parties, both in Ireland and England, acknowledge that the former country has been wretchedly misgoverned. No more atrocious code was ever invented and carried

into effect, than that of the *Popery Laws*, which was at once sanguinary, unjust, impolitic, and selfish, in the last degree. For the accuracy of this description, we do not appeal to the more indignant and glowing publications of the Catholics themselves, but to such a temperate and argumentative commentary as the formal tract of Mr. Burke, inserted in the 5th volume of his Works. "We found the people," says that upright statesman, "as we call them, heretics and idolaters:—we have rendered them slaves and beggars: two hundred years, *dreadfully* spent in experiments to force the Irish to change their religion, have proved fruitless—Ireland is still full of penalties and full of Papists. By so much violence in conquest, and so much tyranny in regulation, we have reduced them to a mob, and we must not then be astonished, that when they come to act at all, they act like a mob, without temper, measure, or foresight."

We should not venture to assert that the Irish are now fit for self-government, but we are persuaded that their unfitness arises, in great part, from the oppression to which they were so long subjected: nor do we suppose that they would be benefited, on the whole, by a separation from Great Britain. Their ablest and warmest friends and advocates, among the statesmen of both countries, emphatically—and we believe, sincerely—declare in favour of the supremacy of England, and the continuance of the Union. As for our author's opinion that no people on earth could be so easily tranquillized and governed as the Irish, it appears to us widely remote from the fact. The lawless and tumultuary habits of a great portion of them; their extreme poverty; the increasing redundancy of the population; and their antipathy to the English—would render it, whatever honest and vigorous efforts might be made, extremely difficult to tranquillize and govern them, and constitute obstacles which it is not in the power of the British cabinet to remove, within a short period of time. Their dispositions verify the maxim, that if the laws, or the rulers, are the enemies of the people, the people will be the enemies of the rulers and the laws. We could not fail to perceive, in Ireland, the absolute hatred which the great majority entertain against the English; and no one, acquainted with the history of their connexion, could be at a loss to account for the prevalence of that sentiment. Seeing the religion which they adore vilified and persecuted, they naturally detest those to whom they refer the odious system; and from such hands they reject or elude all plans of social, as well as religious reformation. It is known and felt by too many of them, that their nation is contemptuously disregarded, or unsparingly derided, by the mass of the English. The Irish members of the British Parliament experience, even in that body, that spirit of lofty indifference or disdainful mockery, which annoys and chafes the object more

than direct, animated hostilities. No pains have been taken to soften the reciprocal aversion : very few of the English have visited Ireland, for the purpose of ascertaining and reporting her condition, while they throng the "highways and byways" of the Continent : in the course of our tour in that country, we encountered but one English gentleman travelling there from liberal curiosity or a desire of information ; and he carried with him a stock of national arrogance and religious prejudice, and a propensity to sneer, sufficient to deprive his inquiries of their proper success and effect, and his errand of all public usefulness. The British philanthropists have traversed every accessible country of the globe, in search of objects of relief and amendment ; they have established missions in the most distant and heathenish lands ; they have expended vast sums and incredible pains, for the moral advantage of Asia, Africa, and Polynesia ; but, comparatively speaking, they have overlooked their nearest neighbours, their fellow-subjects and Christians of Ireland, who needed all the aid which the most unfortunate physical, social, and political condition could be supposed to require ; and whose improvement and reconciliation would have proportionably strengthened the foundations, and cemented the whole structure, of the British power.

Sir Jonah Barrington says little or nothing, either of *Catholic Emancipation*, *tithes*, or the Catholic priesthood ; but enough of the Orange associations, to convince his reader that much of the present discord and misrule is due to those bodies and their abettors. The *tithes* have been always enumerated among the chief grievances of the nation. Grattan, in his admirable speech on "the state of Ireland," (August 13, 1807,) exclaimed—"Tithes have been the principal source of all past disturbances : tithes gave rise to the 'Hearts of Steel ;' tithes called together 'the Right Boys ;' tithes were the cause of 'the White Boys ;' tithes were the cause of 'the Peep-of-day Boys ;' tithes were the cause of 'the Threshers ;' tithes were in a manner a kind of watchword, to summon the oppressed to act in common cause against their oppression." Abolition, modification, commutation, and various other remedies, have been proposed, urged, and debated to satiety, and relief seems as far distant as ever.

With regard to the *Catholic priesthood*, they are vastly more respectable and loyal, in general, than they are represented to be by their Orange adversaries, and their immediate religious rivals and censurers. On this head, we write from some personal observation, and the testimony borne to their merits by members of the British Parliament, of both sides, who spoke from extensive personal knowledge. Their situation is still what it was justly stated to be towards the end of the last century. If they endeavour by their influence to keep a dissatisfied laity quiet,

they are in danger of losing the credit which they possess, by being considered as the instruments of a government adverse to the civil interests of their flock. If they let things take their course, they are represented as colluding with sedition, or at least tacitly encouraging it. If they remonstrate against persecution, they are declared to propagate rebellion: if they defend their own tenets, and endeavour to maintain their parishioners in their faith and observances, against a mighty scheme of impeachment and proselytism, they are stigmatized as ambitious bigots, ever ready to thwart the benevolent views of the government, and resolute to exclude all genuine Christianity from their sphere of action. While it is acknowledged that they possess immense and *indestructible* influence, scarcely any thing is done to conciliate them, so as to win a portion of that influence for British interests; but the more ardent Protestant polemics, and the Orange politicians, perpetually assail their doctrines, and heap opprobrium on their character and conduct. Mr. Burke has contended—and, as we think, demonstrated—that in Ireland, the Roman Catholic religion should be “upheld in high respect and veneration,” as it is in Canada, by the British government; since it is the only instrument by which attachment to the British rule can be produced, or disaffection removed. *Protestant ascendancy* in Ireland, according to the real meaning and drift of the politicians who most employ the phrase, is now the same as of old—“neither more nor less than the resolution of one set of people, to consider themselves as the sole citizens in the commonwealth, and to keep a dominion over the rest by reducing them to absolute slavery under a military power; and thus fortified in their *ascendancy*, to divide the public estate, which is the result of general contribution, as a military booty, solely among themselves.”

We are aware that *Catholic Emancipation*,—the primary claim and topic of the day,—would not prevent the excessive increase of the inhabitants, nor supply them with work, wealth, or knowledge; and that its importance, relatively to the common questions of public economy, is considerably exaggerated; but it would be the concession of a positive right, the redress of an old wrong, the abolition of odious and baneful distinctions, the destruction of the most efficient topic of sedition, the removal of the deepest complaint, and of the chief impediments to the fair trial of other correctives and means of propitiation. When a people are of a turbulent spirit, the best way to bring them into the temper and habit of order, is not, assuredly, to leave them a substantial, irritating, and degrading cause of remonstrance. The franchises which the Catholics claim are, to use the language of Burke, “drawn out of the vital stamina of the British Constitution:” the refusal of them is a continued outlawry from that Constitution: while they are denied, no professions of good will,

or expedients of politic kindness, will find credit or due correspondence; and the demagogues, and disaffected from other motives, will never want a plausible pretext for sounding the trumpet of sedition or rebellion.

ART. VIII.—*Die Poesie und Beredsamkeit der Deutschen, von Luthers Zeit bis zur Gegenwart. Dargestellt von Franz Horn. A History of the Poetry and elegant Prose of the Germans, from the time of Luther to the present. Three vols. 8vo. Berlin. Vol. III. 1824.*

NATIONAL literature varies with national character. It is the public display which a nation makes of its intellectual resources and achievements. It treasures up for coming generations the sentiments which influence social intercourse, and give an impulse to generous action; which lead to the erection of monuments of lasting grandeur, and in their turn are fostered by works of public magnificence. The aspect under which the world is contemplated, the colouring imparted to imagination by climate, government, and private manners, are here represented with fidelity. Literature may, indeed, promote patriotism and cherish public virtue; the Muse may, with her divine inventions, mould the character of a nation after a favourite model of ideal excellence; but the beauty, concentrated in the model, must have already existed in the people. The rudiments of the desired perfection must lie in surrounding realities, and it is in the nation, that the qualities are gathered, which imagination combines and vivifies. The hearts of the many will not be moved, except the appeal be made to passions which are already strong, and gratify tastes and awaken sympathies which are already formed.

In the literature of a nation, we then behold a fair exhibition of national peculiarities; and for this reason among others, it commends itself to the attention of enlightened curiosity. Our age cannot be charged with indifference to the general interests of humanity, nor with slothfulness in its efforts to become acquainted with the various tribes by which the earth is occupied. Under the auspices of a reasonable spirit of inquiry, the currents and paths of all the oceans have been explored; and there is hardly a part of the accessible world, from which intelligence has not been received. The cannibal of the South Sea Islands has been visited by Christian philanthropy; and the miserable inhabitant of the Arctic regions, finds competitors in his dangerous pursuit

of game. The prairies of our Western World have not stayed the steps of the emigrant; and soldiers of European distinction have done service to the swarthy princes of inner Africa, under their own burning sun. The very skulls of men have not been left to manure the earth, but have been gathered into cabinets, if so, perchance, any thing more might be learnt, illustrating the natural history of man. Thus universal and earnest is the desire to know something of the inhabitants of every land. And are we then to be indifferent to those intellectual productions, on which the moral character of a nation is impressed? Into whatever region a man may be thrown, he should not neglect the opportunity of becoming acquainted with the language and literature of its inhabitants; be it Kamtschatka or the polished Persia, Japan or Portugal. The literature of a nation is the just object of attention, independent of literary excellence.

Foreign literature is full of interest from its variety, as well as from the light it sheds on the study of man. Genius remains always the same principle;—the highest gift which a benevolent Providence confers on its favourites. But how differently has it ripened under the grateful splendour of an Italian sky, and in the chilling climate of the North; at the court of Louis, and on the soil of Germany! at Edinburgh and Ispahan! at Vienna and Washington! And this variety gives relief to the inventions of each nation, and an interchange of fictions is a reciprocity of benefits and literary gratifications. There are few themes of censure more general than the extravagant creations of oriental fancy, and the gorgeousness of the style in which those wild inventions are related. And yet the general inference is unjust. In regard to literary fictions, not less than precious articles of commerce, the East has given to the West more than it has received. It has peopled the air with sylphs, and filled the world of man with magic agencies; it gave many a strange tale to be wrought into beautiful shape by the more careful European artist; and furnished a theme to many an active imagination. In the *Fairy Queen*, to glance only at English literature, something of its manner was incorporated with Spenser's sweetness and melancholy; and if it be not enough to add the example of Pope, we may ask, whose fancy needed less than Shakspeare's the support of foreign inventions? And yet the story of the *Merchant of Venice* is of Eastern origin, and the *Tempest* and the *Midsummer Night's Dream* borrow their charms from the brilliant legends of the East. Thus it is, that while learning rewards its possessors, the stores which it collects and dispenses, contribute to the general instruction and amusement. These influences are remote; the nations of Europe, so closely connected by situation and political ties, are constantly exerting an influence on each other.

The result of such common interest is favourable not to the

variety of literary productions only, but also to the culture of taste. A universality of pursuit is necessary to the acquisition of just discrimination, and the quick perception and free acknowledgment of merit. It is only from large comparisons, that we arrive at safe inferences; and though there may be an intuitive perception of beauty, a natural keenness of sight in discerning moral excellence, the end is most surely gained by due preparation. The mind that takes a wide range, is willing to observe the manner in which genius contemplates nature under every sky and in every condition of life; it gains the power of recognising beauty of invention, by whatever narrow customs its lustre may be diminished, and whatever disguise the public fashions of place and time may have compelled it to wear.

Since the efforts of mind are exhibited under an endless diversity of forms, a rashness of judgment can hardly be palliated, certainly not justified. Many foreign modes of expression may to us be singular, grotesque, and even repulsive; and yet judgment should be stayed. Refinement, like every thing else, has its degrees; and under the influence of honest roughness and the directness of unpolished sincerity, style will be deficient in smoothness, and the exercise of imagination be distinguished by boldness and energy, rather than by delicacy. In such cases it is not a characteristic of philosophical criticism, to judge by first impressions. An illustration of our meaning offers itself in the custom of the Italian painters. It is not unusual to see the heavenly Hierarchy introduced in their pictures; nay, the masterpiece of Michel Angelo represents the day of judgment, Christ at the awful tribunal dispensing unutterable woe or endless bliss; and even pencils of inferior power have, unreprieved, shadowed forth in colours the image of the Ancient of days, as it exists in their minds. Now to a large part of our public, entirely unaccustomed even in idea to such representations, the first impression made by these pictures would be an unmingled one of horror at the boldness of the design. But the inference that the painting was bad, would be precipitate; nor would it be just to charge the painter with a want of sanctified feeling. Colours are the words, in which he writes his conceptions; they are his only language; and if a human tongue may speak of infinite Goodness, why, he might ask, could he not be permitted to give, in the only manner possible for him, a visible existence to his ideas of perfect and unclouded Majesty? The custom may be censured; but we must excuse the artist from any moral transgression.

There may exist cases in which, according to the views of one nation, the strict line of moral decency is passed, and yet in another, propriety may not have been offended. In judging of the merit of the individual, the general character of society deserves to be considered. We would not be understood to intend a de-

fence of that loose morality, which requires an apology; but we believe, that a writer, though he may have been injured by the influence of a depraved taste, may yet claim for his works a fair examination. Who would not think meanly of a man, that should have seen the Apollo, and been so shocked by the nakedness of the statue, as to have found in it nothing worth admiring? They are no better than literary prudes, whose tender consciences are so offended by perceiving a blemish, that they are willing to look no further for beauty. In entering on the study of German literature, it must be confessed that there is some need of the caution here given. In Goethe, especially, there is much, at which offence may reasonably be taken; and yet it is but a false inference, that Goethe is not a man of transcendent genius. The German character is so firmly fixed, that in all things, great latitude of discussion is allowed among inquirers, and great liberty is conceded to the inventive poet. Byron's Cain might not have been more liked in Germany than in England, but it would have excited no sensation among those who reverence religion, and its merits would have been made the subject of very calm, unbiassed discussion. Every one remembers the opening of the book of Job. The introduction to Goethe's Faust is taken from it. This has been called a parody, and denounced as outrageous blasphemy. We think without reason. There is nothing in the representation, calculated or intended to diminish disgust at vice, or excite a contempt for goodness. Popular taste in Germany, accordingly, did not revolt at it. It is quite a different question, whether the poet did not err in drawing Mephistopheles so coarsely. He has made him a very devil, mean-spirited, and thoroughly base; he has drawn the demon of evil in foul colours, and invested him with none of the glory that might belong to a ruined archangel, not yet divested of his original brightness.

The freedom of mind, capable of discerning merit in writing, independent of local peculiarities, is the result of a great victory over prejudice and narrowness. Its reward is vast and immediate, and consists in the power of receiving enjoyment from the most various sources. Every exhibition of genius contributes to the pleasures of such a mind; and perhaps no country offers in its literature more numerous or more opposite causes of gratification, than the German. Other nations have gained higher distinction for melody of verse, for exact and limited elegance; but never before did the world behold a nation mature, in a century, a literature so diversified in its character, distinguished by so much learning and so much liberality, so full of thought and imagination, so distinguished alike for specimens of acute philosophical reasoning, and the boldest expression of enthusiastic feeling.

The history of Germany is unique. Its political organization has long been, and continues a strange anomaly in the European

forms of government. The great wars of England, as well as the Continent, have been repeatedly waged on its soil; its prince-doms have been the general battle-field for contending nations, while its princely families have for centuries furnished wives to more than half the sovereigns of Europe. Situated directly in the heart of Europe, the liberties of the old world must have been lost, had the hardy population of Germany been united under one master, and bound together under one independent sovereign. Its climate and soil vary, as you pass from the barren sands, cold seasons, and level regions of the North and the shores of the Baltic, to the splendid banks of the Rhine, the magnificence of the country watered by the Danube, or the grateful mildness and abundance of Baden, or Southern Austria. Everywhere the inhabitants are distinguished as a nation, for kindliness, honest hospitality, and elevated sentiments. The self-denying virtues are venerated. Christianity is a living principle, and efficacious in its influence on the people. Here are the strong holds of Protestantism, and here too the Roman Catholics cherish inquiry, worship in sincerity, and delight in learning. The fine arts are held in high repute, and music universally cultivated.

The German empire was one of the states destined to sink for ever in the recent convulsions of Europe. The line of Roman emperors has ceased, and the phantom of a crown is worn no longer. Letters are now the great, and we might almost say, the only efficient bond of union for the German nation. They have a common language, and a common literature; in other respects, their governments are severally nearly as independent as those of the Italian States. The German league forms little beside the vain show of pretended union. The interests of the several states are heterogeneous, and the connecting bond but nominal. The king of Prussia belongs exclusively to his Prussians, and the emperor of Austria to his subjects; but Goethe is the man of the whole nation, a favourite at Vienna, and on the left bank of the Rhine, flattered by the princes, and idolized by all the people. A strange condition of public existence! where there are no topics relating to the whole commonwealth, to call forth an undivided expression of feeling, no great works undertaken for the benefit, and at the expense of all, no public men belonging to the great national family; and yet where works in literature belong to all, and the efforts of genius, in the career of poetic invention, are claimed by a population of more than thirty millions.

In the whole northern and central parts of Germany, there is but one very large city. Indeed, excepting Vienna, there is in the wide limits of the ancient empire, no one place that can be compared to New-York in point of population, still less in the splendour of new edifices, and the cheering bustle of suc-

cessful enterprise. The consequences of this state of things are visible in public taste. The independence of literary action is fully established. A book derives no great advantage from being published in Berlin or Vienna. Indeed, an impulse greater than any from Vienna, has been given to the public mind by Weimar, a city not so large, and certainly not so flourishing as the town of Providence, or Cincinnati. The public, that invisible, most powerful, impartial personification of the high culture and authority of a nation, is in Germany, as in the United States, to be sought for everywhere. In every village, cultivated minds are unfettered by the decisions of a metropolis, and opinions are freely given, and boldly canvassed. The fate of a book published in France, is decided at Paris; but in Germany, the highest honours in letters, as with us the Presidential dignity, are to be won only by obtaining the free suffrages of remote, independent, and equal districts.

The arrangements of the bookselling interest are well suited to advance the purposes of letters. Leipzig is the great centre of this business: in Leipzig, every book, be it published where it may, is advertised and kept regularly for sale—not a six-penny pamphlet but finds its way there. Nothing is so sure of a good reception, as to pretend to make its way by itself, independent of the usual mode; and nothing so small or so mean, as to be overlooked. In America, if a man in an Atlantic state were to need a book printed at Nashville or St. Louis, he would stand but a poor chance of immediately obtaining it, even by applying to a house of extensive connexions. In Germany, so perfect is the system, you may receive of the smallest bookseller in the smallest town that has a bookseller, any work published in any part of the country, as surely, as soon, and on as good terms, as if you had applied to the house most largely engaged in the trade. It requires no keen eye to discern what influence such a system of things must have on the literary character of the country, and the facility with which intelligence is diffused.

Nor is it unworthy of remark, that the common style of printing is a correct, but not an expensive one. The charms of hot-pressed paper, and the extravagant luxury of large margins, are almost unknown. By this economy, the acquisition of a library is put within the reach of those who have but small means. Every work is usually printed on two or three different kinds of paper, and sold at corresponding prices: thus the rich have no cause to complain, and the poor are essentially benefited.

There is the more advantage in such an arrangement in Germany, as learning is there seldom rewarded with wealth, though sure to gain a competency. German literature is the result of the moral energy of the people: it was fostered by no Mæcenas—it was cherished by no Augustus; it was not rocked and dan-

dled into maturity, but struggled against opposition, overcame indifference, and triumphed over contempt. As long ago as the fourteenth century, the dignity of German men, and the beauty of their women, had found an admirer in Petrarch: *Mirum*, says he, *in terra barbarica quanta civilitas, quæ urbis species, quæ virorum gravitas, quæ munditiæ matronarum, omnis ripa* (he speaks of the Rhine) *præclaro et ingenti mulierum agmine tegebatur. Obstupui, Dii boni, quæ forma, quæ facies, quis habitus! Amare potuisset quisquis eo non præoccupatum animum attulisset.* Yet even Leibnitz, at comparatively a recent day, had the weakness not to be proud of his countrymen, and to join with foreigners in their expressions of contempt; and Frederic of Prussia could not perceive the germs of that genius, which in his last years was to bloom so abundantly. It was the mass of the people, the commoners, that wrought out the intellectual salvation of the country; and hence it comes, that men of letters in Germany, emerging from the middling class, have had their sympathies with the people, have watched for its liberties, and awakened the nation to an effort for independence. To its aristocracy, Germany owes little of its intellectual elevation.

It would be melancholy to study the lives of many of the most eminent German scholars, so great and so numerous were the hardships and deprivations to which they were exposed in the commencement of their career, were it not that we may almost always discern a firmness of mind which never yielded to despondency, and the serenity and happiness proceeding from the conscious exercise of exalted intellect. Many of them provided at first for their subsistence, by subordinate stations in the business of education: to many, the universities offered a temporary theatre of action, and often a scene of honour and exertion for life. The admirable free constitution of the German universities, rendered it the more easy to appear there in the capacity of public instructor. The care of the several branches of science is not, in them, exclusively entrusted to any one. The regular professor is liable to find competitors in his business of instruction, in any whose predilections or whose wants may lead them to engage in the same department. The few establishments, where the system of restraint prevails, have had little or no share in the prosperity, vigorous industry, and sound and impartial learning, for which the German high schools are distinguished. According to the theory of a German university, the business of instruction is as free as with us the practice of law. To ensure the co-operation of some one eminent man in each department, a regular professor is appointed, with a very moderate salary, which operates only as a bounty, to induce him to take up his abode as desired. His

emoluments depend on his industry and success, and are as unlimited as his talents and reputation. Besides this, any man, who feels competent to give instruction, and can offer evidence of his competency, by an examination, a public disputation, and a printed dissertation, that may serve as a specimen of his erudition, is allowed to give public or private instruction, under the sanction of the university, with every facility to be derived from the fixtures, and with all the advantage that arises from being fairly in the list of equal competition. Here, mark the difference between our institutions and theirs. With us, all instruction in the universities is monopolized; whether the professorship derives its income from fees paid by the students, or endowments, the whole care of each branch of knowledge is entirely in the hands of the person appointed; he has no competitor to fear. In a German university, the professor has his salary; the right to teach, and to gain emoluments from it, he shares with all who have the requisite qualifications. There are not a few men in America now, who have no connexion with any of our public institutions, and who could not, of their own accord alone, enter on the career of public instruction in them, as those institutions are constituted, who yet have a right, that would not be disputed, of teaching the sciences publicly, and at will, in any one of the leading German universities. It may be thought, that this liberty of teaching is productive of endless strife and undignified jealousies. Far from it. It makes the public teachers industrious and faithful, for otherwise they would soon be out of employment; and it is no more productive of evil, than the custom among us, of a young lawyer or physician attempting to practise his profession in any place where he thinks an opportunity offers. The established professors find nothing grievous in the arrangement. Now and then, it is true, a man who remains behind the age, or has little talent as a teacher, is doomed to see his lecture-room vacant, and offer instruction which no one cares to receive. And so it ought to be. But a faithful man has such an advantage secured to him by his regular appointment, that to him his youthful competitors are but as followers and coadjutors,—men who give assistance to the students in those things for which the time of the professor, or his inclination, leaves him no disposition. A competitor of equal years and standing is unknown, except as a professor likewise regularly established; for talent and learning are not such every day qualities as ever to be left unsought for. When a professor dies, or is disabled by age, the public has the benefit of being able to select a successor from the crowd of young and experienced aspirants. And if, which will sometimes happen, the regular professor grows idle, the science does not droop in neglect: the want of instruction soon calls forth persons com-

petent to give it ; and the public is not a great loser by any misappropriations, since the emoluments of a teacher depend mainly on his own exertions.

Nor let it be supposed that the universities, which have had so wide an influence on the culture of the Continent, are all of them hallowed by age and sacred associations. Göttingen is not yet a century old, though it has already gathered the most useful library in the world. It is but about twenty years since the University of Berlin was founded, and last summer its number of students was the largest on the Continent. And a year is not completed since the foundation of a university was laid at Munich, and already its success is assured. But how were those foundations laid ? Not by building halls, but by collecting together learned men, and opening to them a career of utility and honour, and of emolument. *Honos et præmia!* Where these are dispensed freely, learning will thrive; free competition and public favour, industry, unchecked in its exertions and unlimited in its rewards, will in this, as in every thing else, lead to brilliant results.

And here it would not be without interest to glance at the condition of our country, and draw a parallel with regard to the character of men who would become public instructors, if our institutions were put on a liberal footing; the relative number of those, who, in this country and in Germany, are desirous of a public education; the influence of the respective governments; the liberality of the community. But we must forbear: the subject is of too vast magnitude; and we will only venture on the remark, that if our institutions languish, the cause does not lie in the apathy of the public.

The direct influence of the German universities is incalculable. A large part of the community derive benefits from them. They fill the offices of state with men of learning; they make valuable kinds of information, elsewhere rare, so common, that hardly a village is left without them. They domesticate learning; they give an earnest and speculative character to the common mind; they render the public capable of appreciating eminent merit. Their influence may be perceived even in the works of imagination. There you may find traces of an intimate acquaintance with the tastes of other ages and nations. Where learning is acquired by a weak mind, and such a mind ventures to make an effort in elegant literature, the result may be ludicrous; but, generally, strength of imagination is united with the power of various acquisition. Such a union we think characteristic of German genius; a mass of erudition may sometimes seem to render it obscure and heavy, till it is inflamed by the brilliancy of imagination: it resembles the thick cloud, which broods heavily over the horizon in gloomy darkness, till it is kindled by the light-

ning, and then it nourishes abundantly the sacred element, and emits flashes of admirable lustre.

Letters are in Germany a profession, to which men are regularly educated. The profession is moreover a thronged one; of course, moderate merit is abundant, and distinction difficult to be obtained. There are few instances of scholars who have at once risen to eminence. The first years on entering life are generally years of hardship and struggle; but where talent is joined to industry, notoriety is at last gained, and a moderate competence secured. There is nothing in our country more nearly analogous to this state of things, than the condition of the profession of law. The road of emulation is so crowded, that it is wholly unsafe to rest upon honours already acquired; continued mental activity, and persevering diligence, are absolutely necessary to preserve even a favourite from neglect. It is always understood by the German scholars, that there is much hard work to be done, requiring time and habitual toil, from day to day: letters are not to be the pastime of a dull afternoon—the business over which a man may loll in an easy chair—the fashionable topic for a half hour's conversation in the evening: they are considered, as they ought to be, a most honourable and most laborious profession.

To these habits of industry we must attribute the thoroughness and the universality which characterize German literature. In almost every branch of human knowledge, the Germans have some one treatise, which may be said to exhaust the subject; containing not the views of the author merely, but a condensed sketch of all that has been written upon the matter in discussion. Thus, in the department of Ancient History, they have no one history, on the whole, so meritorious as Mitford's History of Greece; but they have many, in which all Mitford's views, together with those of many other scholars, eminent for their researches in Grecian history, are condensed, and the grand results, with the authorities, communicated in the fewest words. A German author, investigating a topic, for example, of history, first collects all the ancient works in which any original information can be found. These he calls his fountains, or the sources of his knowledge, and he divides them into three classes—first, that of cotemporary witnesses, whose evidence is preserved by cotemporary writers: next, of cotemporary witnesses, as cited by subsequent authors; this evidence is of the highest value, when that of cotemporary writers is no longer extant: and lastly, the narrations of writers who record the event, yet do not give any means of judging on what authority they rest their narration; and this evidence is of little use, except where the first kinds are wanting. Having carefully distinguished and collected all these original sources, the next step is, to examine the works of those

who have treated of the subject in modern times. Such works are called auxiliaries. Fair reasoning and honest criticism would require of all writers of every nation to act after the manner here described : but we believe, that any person intimately acquainted with German works of research, will accord with us in conceding to them a peculiar skill and scrupulous care, in making this necessary discrimination.

As an instance of the nicer distinctions made by the German scholars, in the use of the ancient writers, we might refer to the manner in which the Lives of Plutarch are cited. Critical research having shown that Plutarch has committed many mistakes, it has been usual to quote his authority with caution, and his statements in doubtful cases have been regarded as not completely decisive. It occurred to the Professor of History, at Göttingen, to investigate the Lives of Plutarch for traces of the works from which the eminent biographer derived his information. The research has been attended with much success; and it is made plain, that in some of his biographies, he drew his materials directly from the best authorities. Thus, writing of Cicero's consulship, he had before him the account given by Cicero himself, which account is now lost. In this case, the German cites Plutarch* as the very best authority to be had, and decisive on any point of fact; and a similar investigation may deprive Plutarch of weight in some other cases.

There is one branch of criticism, requiring rare sagacity and great deliberation, and cultivated but little except in Germany. It is called the *Higher Criticism*, and begins its office where historical criticism ends. Thus, as to the poems of Homer, all the historical evidence of which we are possessed, enables us only to establish the essential identity of our printed copies, with the edition collected and published by the Alexandrian scholars. But what changes may have taken place in the verse, previous to that period? What evidence have we, that the Alexandrian scholars had an uncorrupted text? The same kind of questions have been raised in theological criticism. It is obvious, that these are reasonable and safe topics for consideration, to certain minds; but to ask such questions of the rash and doubting, is only to throw open the flood-gates of literary scepticism. And in fact, there has been left hardly one eminent author of antiquity, who has not been cheated out of part of his fame, and denied

* The Baron of St. Croix, author of several very valuable works, especially one on the ancient federative governments, denies Plutarch all claim to exactness. Mitford, in the twenty-ninth chapter of his history, disputes Plutarch's credibility. The subject is discussed with more care and impartiality by Heeren, in his Essays *De fontibus et auctoritate vitarum Plutarchi*. These Essays were originally read before the Göttingen Society of Sciences, and printed among their Commentationes. They have since been published separately.

the authorship of part of his works. Sophocles is made to give up one of his plays; Plato half his dialogues; Anacreon almost all his odes; and the Iliad and the Odyssey are found to be full of interpolations, the shreds and rags of audacious sophists, patched upon the simple and majestic robes of Homer. The dangerous tendency of this branch of criticism, when pursued by a mind bent on arriving at new conclusions, is too obvious to need to be enlarged upon. It has given to a branch of science an air of scepticism, which was not the object of the writers, and which by no means exists in the people.

The same spirit of persevering inquiry, which does the business of research so faithfully, has encouraged a universal interest in literary productions. The great works of other times and ages, are not merely known to the man of letters, but are for the most part nationalized. It would not be easy to fix the number of times that Byron's favourite pieces have been translated. Wieland, Schiller, Schlegel, and more recently, Voss, have all done something for Shakspeare; Wieland and Schlegel perhaps the most. Calderon has found two admirable interpreters, and is a great favourite. If, from the literature of the West, we turn to that of Persia, Germany has a translation to offer of the Epic of Firdusi, and a complete, very literal, and very elegant translation of the Songs of Hafiz. Herder naturalized the Greek anthology, which of late has not only been admirably edited, but elegantly translated by Jacobs. Scott's novels appear as regularly at Leipzig, as at Philadelphia, or London; our own Irving's exquisite descriptions have been published in a German dress; and Cooper has become quite a favourite. His former novels were so well received, that we hazard little in saying the *Prairie* is already in the workshop of some translator, preparing to come forth next *Michaelmas* in a German dress, and fill many a village inhabitant with wonder, that we Americans should like a country so much, where a man may have his wife stolen from him on the wedding-day, and be almost run down by buffaloes, as he goes in quest of her. Heckewelder's book was immediately translated, and Du Ponceau's enlightened and philosophic spirit has received frequent and grateful encomiums. The works of Franklin, Marshall's, and, we believe, Ramsay's *Life of Washington*, *Washington's Letters*, *Europe*, by a citizen of the United States—these are some of the American works, which occur to us, as re-published in the German. One other we remember; it is Miss H. Adams' *History of the Jews*, a work of merit, and probably not known to half our readers, as existing in English. So numerous are the translations from the Latin and Greek, that it required a large work in two respectable volumes, to give an account of them all. Some of them are of course inferior; but where they are executed with spirit, there is no kind of jealousy

manifested about admiring them. They, and all other good translations, meet with a favourable reception, though the original is of foreign origin. On their theatres, *Romeo and Juliet*, or the *Merchant of Venice*, of the English dramatist, will draw as large a house, and gratify it as much as the *Wallenstein*, or the *Maid of Orleans*, or the *Mary Stuart* of Schiller. Calderon is played quite as often as Goethe; and even a comedy of Terence is sometimes represented.

The result of this enlarged curiosity is, to increase, in an unparalleled manner the amount of knowledge in circulation, and to liberate the general mind from prejudice. The originality of German inventive literature is not impaired, nor is the independence of the German mind sacrificed to the spirit of acquisition. The nation has its own character, which is preserved inviolate, though it is strengthened and enlarged by receiving additions from many sources; just as several streams, in themselves not large, often lose their distinctive character, as they unite, and then forming one majestic river, roll onwards with new magnificence.

Let it be remembered, that all these foreign works of which we have spoken, as translated into the German, may be obtained in the ordinary way of the booksellers. What an advantage and comfort to a literary man, in a retired village, who may have no opportunity for learning many languages, to be able to procure a faithful copy in his own tongue, of any foreign work he may wish to examine, and by merely sending the title of it to his village bookseller, be sure of receiving it in the first heavy coach that returns from Leipzig.

As a further illustration of the general interest entertained by the Germans for foreign literature, we may add that Calderon's works have been repeatedly reprinted in Spanish, that there are several editions of Shakspeare, Scott, Byron, and other English writers, in the English, and exclusively, or at least mainly, designed to supply the demand of the reading world at home.

Great independence of opinion is a characteristic of German scholars. Controversy is conducted with the utmost freedom. Where truth is the object, it is not deemed tolerable, that personal considerations should check a free expression of sentiment. Hence there is great collision of opinions, as with us in the political world, and every view comes finally to be considered. It is not esteemed unseemly for men, who reside in the same place, or are employed at the same university, to advocate opposite views. The right to the free action of mind, in conducting literary research, is never abandoned. This independence in opinion, is increased by the usual modes of life. Passing their time in retirement and application, the men of letters have little communication with each other, or the world, but through the

press; and restrained from society by habits of continual industry, and yet holding close intercourse with the public through the press—intimate relations of friendship, and on the other hand, implacable hostilities, may grow up between those who have never heard the sound of each other's voice.

The habit of private study leads finally to a state of high mental excitement. The scholar, within the walls of his study, feels the impulse of high motives, the rush of rapid thought, and the charms of crowded existence. He represents to himself not a distinct, visible, and limited audience, but a vast and unlimited public, an undefined mass of intelligence and numbers, an assembly unlimited in its possible extent, and deriving new dignity, even from the awful mystery in which it is enveloped. The German scholar writes under the conviction that his work will fall under the eyes of men competent to judge, and the usual tranquillity of his life, and regularity of his habits, make him the more susceptible of this kind of excitement.

The remoteness in which the German student lives from the ordinary interruptions of external life, favours devotedness to a single object. The instances are numerous, of men who have devoted the best part of their lives to one engrossing pursuit. The subject which thus engages the mind for years, becomes ever present to the thoughts, and is treated with liveliness as well as learning. There are some who can describe to you the antiquities of Egypt, or the ruins of Persepolis, who may hardly know there are republicans among the Andes; others have a better understanding of the springs that directed the Peloponnesian war, than the French revolution, and have made up their minds on the character of Pericles, though they may know little of any of the Bourbons. Subjects of antiquity are treated as though they were present to the senses; and the historian of Greece transfers himself and all his interests, as a living man, to the scenes which he describes. The historian of nature, too, lives in his subject; he carries his enthusiasm into the details of physiology; he explains with animation the wonders of the mineral kingdom; or if his topic be the fossil remains of the former creation, he seems almost to throw his mind back into that wonderful state of things, when nature delighted in monstrous forms, when trees dropped amber, and insects were enshrined in transparent tombs.

With much excellence, it need not be denied that much extravagance has been published in Germany. Where there are so many minds at work, (in the first ten years of this century there were more than ten thousand living authors,) there exists an eagerness for distinction, which breaks out in a thousand strange, unheard-of ways. Sentiments bold and paradoxical, inventions wild and wonderful, sometimes for a season engage the attention, which nothing but genius and truth can secure. But the evil is

attended by its remedy, and among so many good intellects, error cannot proceed far without opposition, nor folly without exposure. The nation does not stand answerable for the aberrations of any of its citizens, since it was the first to reproach their perversity and errors. If these have been censured abroad, they have been censured more severely at home.

The remarks into which we have been led, would seem to prepare the way for an analysis of the excellent and satisfactory work, of which the title stands at the head of this article. *Bouterweck's History of German Literature* is on the whole a work of a higher character; but *Horn* has given more time and the most persevering inquiries, in order to make his history complete; and we must declare our conviction, that he has done his part extremely well, abating something from our confidence in his judgment, on account of his national predilections, and something for his idiosyncrasies. He has a good deal of affectation, and is too exquisite for our taste; but having said this, we must add, that we hardly know a more interesting, thorough, or trustworthy literary history.

We would cheerfully proceed to give some account of the literary merits and personal fortunes of some of the first writers of Germany. But we feel, that we have already made large demands on the patience of our readers. A more effectual method of communicating a knowledge of good German works, would be, to exercise corresponding liberality, and republish among us some of the best. But for this, we are sorry to say, no encouragement exists. The curiosity of our nation in literature is not sufficiently expansive; our public refuses its attention to works written for another hemisphere, and a different state of society. This is natural, but it is not wise.

The facility of receiving enjoyment from a variety of sources, is an advantage of high value. It is well to rejoice in every exhibition of genius. What should we think of the man, who not only clings to the pleasures rendered dear by habit, but denies that there are others to be set in comparison with them? And yet we hear hasty judgments on the merits of whole classes of writers. Every man has indeed the right to choose his own guides to the summit of Olympus; but we question the soundness of those who deny that there are more ways than one. Such an opinion could be explained, only as the result of mental imbecility, of a narrowness that submits to the shackles of prejudice. Born and bred in a temperate zone, we all admire the loveliness of our landscape, where the graceful foliage of our trees is mingled with the rich verdure of our meadows and the abundance of our harvests. But shall we have no eye for other charms? Shall a Swiss scene, where the glaciers enter the fertile valley,

and winter and summer are seen side by side, have no power to please us? Or a scene beneath a southern sky, where the palm trees lift their heads in slender magnificence, the forests are alive with birds, and glitter with the splendour of variegated plumage, and earth is gay with all the colours that gain their deep tints under a tropic sun? The eye that communes with nature and understands it, discerns loveliness in all its forms. And shall we, who are certainly not incurious as to the concerns of the world, be indifferent to foreign letters? Must we be so engrossed with the language and concerns of business, that we cannot listen to the language of poetic inspiration? And must we for ever and unceasingly be deafened by the din of congressional rivalries? Is there between the acclamations and rebukes of partisans, and the hot warfare of canvass for office, no happy moment of tranquillity in which learning may raise her head fearlessly and be respected, and the pursuits of contemplative life be cheered by the free expression of general approbation, and quickened into excellence by the benignity of an attentive nation? We cannot as yet be said to have a national literature; but we already have the promise of one, and the first fruits; as the literary character of the country is developed, it should resemble our political institutions in liberality, and welcome excellence from every quarter of the world.

ART. IX.—*Reports of Cases adjudged in the Supreme Court of Pennsylvania.* By THOMAS SERGEANT and WILLIAM RAWLE Jun. Vol. XII.

IN placing a volume of *Law Reports* at the head of this article, we have no intention of erecting ourselves into a *High Court of Appeals*, to rejudge the judgments of the Supreme Court of Pennsylvania. The decisions of the tribunals of the law have generally but little interest, except to the parties immediately concerned in them, and to the members of the profession to whom they are to serve as counsellors and guides. In a country like ours, however, where the supreme power is the *Law*, which is declared and promulgated by courts erected and established by the people, cases will sometimes occur in which the whole community possess a deep and vital interest, and to which they will ever give an anxious and vigilant attention. Such are all those which touch the Constitution, the charter and security of our rights and liberties; under whose protection we walk fearlessly by day, and sleep undisturbed through the night.

The volume before us contains, not indeed the judgment of a court, for such a judgment has never been given by any court, but the opinion of a single judge, upon a subject of the first importance to all our institutions, and to every citizen of our great commonwealth; and which, we thought, was as fixed and immoveable as the foundations of the government. If it be not so, there is nothing settled or certain among us; and the powers apportioned by the people, to various departments, as it has been believed, with sufficient certainty, are yet floating in chaotic confusion and restlessness.

It is now forty years since the *Great Convention* offered to the people of the United States a form of government, made with infinite deliberation, wisdom, and patriotism. It is now nearly forty years since the people received and adopted this government; under which, from the very hour it went into operation, they have lived "in safety and happiness; they have increased in prosperity and power, beyond all example; they have established justice; ensured domestic tranquillity; provided for the common defence; promoted the general welfare, and secured the blessings of liberty to themselves and their posterity." The powers of this government are distributed among three departments, the legislative, the executive, and the judiciary; which were immediately organized according to the provisions of the Constitution, and have gone on in harmonious co-operation for the "general welfare," to the present hour. Questions have arisen, from time to time, as was expected, respecting the extent and limitations of powers; and were at once settled by a reference to the Constitution and its fundamental principles, acknowledged by all to be the source of their authority. To the people of the United States, it was of the first moment that this instrument should be truly understood and honestly executed. From the known and unavoidable imperfection of language, it would necessarily happen that some parts of it would be liable to doubtful constructions, to be developed only by experience; and it must therefore be conceded, that a power was intended to be provided to decide such questions and settle the construction for future cases, or there is a radical imperfection in the system, that must finally destroy it. On any other supposition, these questions would not only remain unsettled, but accumulate; continually embarrassing all the operations of the community with uncertainty and contradiction. The Constitution would be encumbered with numerous irreconcilable interpretations, with no power to decide between them, throwing the whole system into a ruinous confusion; choking it with insurmountable difficulties, until, finally, the wheels must stop. The great men who formed our government never intended that such should be its fate; that it should be thus strangled by the struggles of its own force-

the conflicts of its own powers. One of the most obvious anticipations of interference in the exercise of authority, was between the established provisions of the Constitution, and the Acts which the federal or state legislatures might pass. It must have been foreseen, that sometimes by inadvertence, and sometimes by violent excitements, these legislatures might step beyond their prescribed limits, and encroach upon the enactments and securities of the Constitution. The necessity, therefore, of providing a power to check these invasions, and bring back the usurping department to its proper sphere of action, could not have been overlooked. The actual exercise of this restraining power was soon called for; and it was assumed at once by that branch of the government, in which it had been supposed to be placed by every intelligent expounder of the Constitution; to wit, the *Judiciary*. It has here remained by universal acquiescence, undisturbed by any serious opposition; although occasionally questioned by a few unknown newspaper politicians and restless theorists, who have attracted no attention, and produced no effect injurious to this claim of the Judiciary. The courts have gone on asserting and exercising, with becoming caution and deference, the right to decide upon the legality and validity of legislative Acts, and the people have sanctioned the right for nearly forty years. It is true, as we have said, and as it ought to be, the Judges have been scrupulously guarded and respectful in the use of this high privilege; they have paid a profound deference to the judgment and will of the representatives of the people; but they have not taken it for granted that they are omnipotent or infallible; and therefore, in clear cases of a departure from the Constitution, they have not hesitated to put them in the right way again. On the other hand, the legislatures, on such occasions, have not failed to conduct themselves with the dignity, good sense, and patriotism, eminently the duty of the representatives of a people deeply and permanently interested in sacredly preserving the palladium of their liberties from violation from any quarter. The legislatures have either repealed the obnoxious Act, or ceased to insist upon it.

In this volume of the "Reports of Cases adjudged in the Supreme Court of Pennsylvania"—in the case of *Eckin and others against Raub and others*, p. 330—an elaborate argument is delivered by *Judge Gibson* upon the right of the Court to decide upon the constitutionality of an Act of the legislature of Pennsylvania, which was alleged to be contrary to the Constitution of the United States, and of the state of Pennsylvania. The Judge impeaches this right, or attempts to impose limitations upon it, which would render it of little value. It is our intention to examine the soundness of his argument, with entire respect to him, but with the freedom such a question demands. As the Judge certainly knew his opinion was contrary to all precedent, and

even to his own former judgment, we may regret that he volunteered it in a case which he does not pretend called for it; and in which it is declared by the Chief Justice, that "no constitutional question can arise," on the construction he adopts of the Act in question. Judge Gibson seems also to adopt the construction taken by the Chief Justice, but says, that instead of controverting the other construction, "I will avail myself of it to express an opinion which I have deliberately formed, on the abstract right of the judiciary to declare an unconstitutional Act of the legislature void." On this question the Chief Justice contents himself simply by declaring, "that I adhere to the opinion, which I have frequently expressed, that when a Judge is convinced, beyond doubt, that an Act has been passed in violation of the Constitution, he is bound to declare it void, by his oath, by his duty to the party who brought the cause before him, and to the people."

This essential right, without which our government has no more durability, consistency, or strength, than twenty-five floating and changing bodies shall choose to allow it, being now brought judicially into question, the occasion may be well taken, to give it a full examination, to show on what foundation it rests, and by what authority it is claimed. In undertaking to perform this office, we claim only the humble merit of bringing together the valuable materials prepared by abler hands; and presenting in one view, the vast mass of precedent and reason, by which this vital principle of our system has been maintained and illustrated. This, perhaps, might have been done in the form of a condensed argument; but, as our object is to give the utmost authority and weight to the principle, it seems to us it will be better done in the language of the great men who have sustained it. Before we enter upon this discussion, we cannot suppress the inquiry—to what purpose, with what object, has the learned Judge wrought out and published these laboured pages, calculated, so far as they may have any influence, to unsettle a principle so long established—so uniformly and extensively received and acted upon, and so vital to the best interests of the community? We have seen, that the decision of the case before him did not require it; and if it had required it, we may easily show he had no judicial authority, to give such an opinion. Why did he avail himself of a construction of an Act of Assembly, which he does not adopt, to express an opinion on "the abstract right of the judiciary, to declare an unconstitutional Act of the legislature void?" Did he hope, by his single voice, to reclaim all the courts and legislatures, federal and state, from the heresies they had followed for so many years, and on so many occasions? Did he expect to change the whole current of political and judicial opinion on this subject? In works of romance, we read of men who, singly, hewed down giants, routed armies, and over-

turned castles and towns—but children no longer credit such tales; and we hardly looked for a similar enterprise in our day.

Although the internal machinery of our system of government is somewhat complicated, and puzzles the eye of a stranger, its general outline and leading features are easily understood. Thirteen states, independent of each other, but alike subjected to a foreign power, united in a common effort, with a common object, to throw off the unjust restraint. This combination, hastily and imperfectly formed, was made to meet the operations and emergencies of a revolution. But when the great work of independence was achieved, and these states desired to continue the Union, so happily begun, it became necessary to establish it on a more extensive and durable foundation. A variety of rights and interests, of great delicacy, were to be adjusted; and a variety of objects of great importance to the general welfare, were to be accomplished. With this magnificent design, "THE PEOPLE of the UNITED STATES" assembled, by their chosen and trusty representatives, "in order to form a more perfect union, to establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty." All this was done in the formation of the Constitution, under which we have advanced in prosperity, power, and happiness, unknown to man before. It must be kept in mind, that this great charter, which, we trust in Heaven, is becoming more valued and dear to us every day, is the act and will of the PEOPLE of the United States, from the moment they solemnly adopted and ratified it. Whatever therefore is done, by the functionaries appointed to carry this government into operation, in the fair execution of the provisions of the instrument—in the honest and just exercise of their powers, is done by *the act and will of the people*; the particular officer by whom it is done, being, in this respect, but the instrument of the people, by which they exercise the power. When, therefore, any state authority places itself in opposition to this power, it opposes not only the general will of the people of the United States, but of the people of the particular state also; and the legislator of such state deceives himself in supposing that he is doing the will of his constituents, when he violates or disregards any provision of the general government.

It is our intention to show the opinions and reasoning of the best and wisest of our statesmen upon this question; and then to bring forward the various judicial decisions, that, from time to time, in almost every state of the Union, have been made upon it. We shall premise, that the doctrine we contend for, has not grown, for the first time, out of the Federal Constitution; and much less is it the offspring of aristocracy and ambition, or fede-

ral cupidity seeking to extend the powers of the general government beyond its safe and legitimate limits.

Long before the existence of our Constitution, some of the most sturdy advocates of popular governments, saw, very clearly, the necessity, in such governments, of providing some other check than the right of election, upon the representatives of the people; and, in some of these states, this check was exercised by the judiciary, as the safest, if not the only department, in which this controlling power could be placed. *Judge Tucker*, in his edition of *Blackstone's Commentaries*, (vol. i. Appendix, page 81,) speaking of the Constitution of Virginia, cites an opinion of Mr. Jefferson, that "the want of a proper barrier between the several powers of the government, hath left both the executive and judiciary departments dependant on the legislature for their subsistence in office;" the Judge thinks, with Mr. Jefferson, that the Constitution of that state "has not provided those barriers, which may be deemed indispensably necessary, to prevent the several departments from transcending their legal limits, without being effectually checked and restrained *by the others*;" and he "deprecates the ill consequences which, at no very remote period, may result from it." He however informs us, that "more than one instance might be adduced, where the judiciary department have doubted or denied the obligation of an Act of the legislature, because contrary to the Constitution." The Judge refers to the case of the District Court Clerks, in the Court of Appeals, May 1788, and of *Kamper vs. Hawkins*, in the General Court, November 1793. In page 83, the Judge derives consolation from the "powers vested in the Federal Government, which may in a great measure shelter us from the storms to which the very great defects in our state Constitution must inevitably have exposed us, but for the many advantageous arrangements in the Constitution of the United States. If, by any fatal event, the federal union should happen to be dissolved, or broken, there is not a state in the confederacy, that would sooner feel the total inadequacy of its Constitution, to support its liberties and independence, than Virginia." In page 92, Judge Tucker gives a part of the argument of Judge Wilson, in the case of *Kamper vs. Hawkins*: and adds, "to my understanding, nothing can be more conclusive than this argument." In a note on page 95, he tells us, "it seems now to be settled in all the superior courts, that whenever the Constitution and an Act of the legislature are in opposition, and cannot exist together, the former must control the latter." It is material to remark, that the Judge is speaking of the state courts, the Constitution, and the legislature of Virginia.

We proceed to show the opinions and reasoning of our statesmen upon the right of the judiciary to declare an Act of the le-

gislature, federal or state, void, if it violates the Constitution, federal or state, and therefore to refuse to execute it.

If there has ever been an instrument or compact that has been truly and faithfully explained, it must be the Constitution of the United States, as expounded in the Numbers of the *Federalist*. The authors of these invaluable commentaries fully deserved, as they fully enjoyed, the highest confidence of their country, for their learning, talents, and patriotism. They were leading members of the Convention by which the Constitution was formed; and had been present, aiding in the discussion of every principle, and the introduction of every line and syllable contained in it. They could hardly be mistaken; and will not be suspected of misrepresenting the views and intentions of those by whom the compact was framed.

We therefore refer with great confidence to the pages of the *Federalist*, on the question now under consideration. We shall find that the authors of this work, as well as other eminent men to whose opinions we shall refer, are far from believing that the legislative branch of the government is the most safe depository of power; is the least likely to pass its prescribed limits, or to require a controlling hand to keep it within its due exercise of authority. It is in its nature grasping and restless; and its annually changing materials take from it that settled principle of action, that known and fixed responsibility, which attaches to the other branches. In the forty-eighth number of the *Federalist*, the writer insists that it is "essential to a free government," that the legislative, executive, and judiciary departments, should be so far connected and blended, "as to give *each* a constitutional control *over the others*;" and that it is necessary to "provide some practical security for each, against the invasion of the others." The mere boundaries of power marked in the Constitution for each department, are not a sufficient security against "the encroaching spirit of power;" a "more adequate defence is indispensably necessary for the more feeble, against the more powerful members of the government: the legislative department is every where extending the sphere of its activity, and drawing all power into its impetuous vortex." The founders of our republics, it is remarked, distinctly saw the danger to liberty, from an hereditary magistrate, supported by an hereditary branch of the legislative authority; but "they seem never to have recollected the danger from legislative usurpations, which, by assembling all power in their own hands, must lead to the same tyranny as it threatened by executive usurpations." In the same number, it is strenuously urged, that "in a representative republic, where the executive magistracy is carefully limited, both in the extent and duration of its power; and where the legislative power is exercised by an assembly which is inspired by a supposed influ-

ence over the people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reason prescribes; it is against the enterprising ambition of this department, that the people ought to indulge all their jealousy, and exhaust all their precautions."

These are the sentiments of Mr. Madison, a wise and learned statesman, a tried patriot, and an approved friend of the liberties and rights of the people. We therefore shall come to the consideration of our subject, without any fear from the popular cant, that because the legislature is composed of the immediate representatives of the people, they are therefore less subject to restraints, or require them less, than the other departments of the government. This excellent and profound writer appeals to experience as well as to reason, for the truth of his doctrines; and further to fortify them, he cites a most instructive passage from Mr. Jefferson's Notes on Virginia; who says, "one hundred and seventy-three despots would surely be as oppressive as one;" and maintains, that we fought for a government which "should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one should transcend their legal limits, without being *effectually* checked and restrained *by the others*." Mr. Jefferson produces instances in which, for want of such restraints, the legislature of Virginia had decided rights which should have been left to the judiciary; and says, that "the direction of the executive, during the whole time of their session, is becoming habitual and familiar." An example is also given by Mr. Madison, from Pennsylvania; who refers to the report of the Council of Censors in 1784, from which "it appears that the Constitution had been flagrantly violated by the legislature, in a variety of important instances;" nay, so bold were they in their usurpations, that "the constitutional trial by jury had been violated." In the next number, Mr. Madison irresistibly combats the notion, adopted by Judge Gibson, of a "recurrence to the people, as a provision in all cases for keeping the several departments within their constitutional limits." The author truly says, "there appear to be insuperable objections to this proposition;" and he states them with a strength and clearness that would have prevented the Judge from venturing on such ground, had he recollected them. We should have pleasure in citing them as they are given, but the book is in every body's hands.

The necessity then of some practical, effectual restraint upon the legislative exercise of power, being established—resulting, indeed, from the very existence of a Constitution, or supreme

law, limiting the legislative power; and it being clear that this restraint cannot be found, for any practical or effectual purpose, in a recurrence to the people, the great question arises, *where is it?* by whom is this great and essential power to be exercised? We have this most important question answered, in the work we have alluded to. In the seventy-eighth number, the author, after showing that the *Judiciary* is the weakest and "least dangerous to the political rights of the Constitution," of all the departments; that it "dispenses no honours; has no influence over either the sword or the purse; no direction either of the strength or of the wealth of society; and can take no active resolution whatever;" that "though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter;" he concludes that "the complete independence of the courts of justice is peculiarly essential in a limited Constitution;" and further, that the limitations of the Constitution, "the specified exceptions to the legislative authority, can be *preserved in practice no otherwise than through the medium of the courts of justice*; whose duty it must be to declare all Acts, contrary to the manifest tenor of the Constitution, void. Without this, all the reservations of particular rights or privileges *would amount to nothing*." The whole question is then argued with a strong and skilful hand; and the wonder is that it should ever afterwards be moved. It is shown that the doctrine implies no superiority of the judiciary to the legislative power; but a submission of both to the will of the people who are the masters of both. "Where the will of the *legislature* declared in its statutes, stands in opposition to that of the *people* declared in the Constitution, the Judges ought to be governed by the latter, rather than the former."

When the Constitution was submitted to the people for their consideration, and Conventions were appointed for this purpose, in the several states; it was impossible that this power of the judiciary should have escaped attention. A reference to such of the debates of the Conventions as have been published, will show what was thought of it by the great men of which those bodies were composed.

The hottest opposition to the adoption of the Constitution was found in Virginia; and the most powerful talents of that state were arrayed against it, in the Convention which was called to deliberate on it. Of course the discussion of its faults and virtues was exceedingly animated and powerful; the examination of its various details, acute and minute; and the debate, on the whole, most able and extensive. The champion of the assailing party, was that great favourite of the people of Virginia, *Patrick Henry*; who was never suspected of being wanting in reverence for the rights of the people or of their representatives. His opinion

upon the subject we are treating, is explicit and strong; and his only fear is, that the federal judiciary are not made sufficiently independent, to exercise with firmness their right of controlling the legislature. This is his language:—

“The honourable gentleman did our judiciary honour, in saying, that they had firmness to counteract the legislature in some cases—yes sir, our judges opposed the Acts of the legislature.” (Judge Gibson will take notice he is speaking of a state legislature and state judges.) “We have this landmark to guide us. They had the fortitude to declare that *they were the judiciary*; and would oppose unconstitutional Acts. Are you sure that your federal judiciary will act thus? Is that judiciary so well constructed, and so independent of the other branches, as our state judiciary? Where are your landmarks in this government? I will be bold to say you cannot find any—I take it as *the highest encomium on this country, that the Acts of the legislature, if unconstitutional, are liable to be opposed by the judiciary.*”

Our Judge is at war at all points with Patrick Henry. The latter thinks it clear that the state courts, at least those of Virginia, have the power, but doubts it in those of the United States, or fears it is not sufficiently explicit; the judge reverses the proposition.

Mr. Madison, in his speech on the judiciary, says, “were I to select a power which might be given with confidence, it would be judicial power.” Mr. Henry, on the same subject, declares, that “so small are the barriers against the encroachments and usurpations of Congress, that when I see this last barrier, the independency of the Judges, impaired, I am persuaded I see the prostration of our rights;” thus showing his opinion, that it is only by the control of the judicial over the legislative department, that our rights can be preserved, and liberty made secure. He then speaks of the oath of the Judges, to preserve the Constitution of the state and of the general government. He says his “only comfort is the independency of the Judges. The judiciary are the sole protection against a tyrannical execution of laws. If they cannot help us, we must sit down quietly and be oppressed.”

Mr. Marshall, in this Convention, maintained the same doctrine which he afterwards enforced so ably in his judicial character. Speaking of the power of the general government to make laws—“Can they go beyond the delegated powers? If they were to make a law not warranted by any of the powers enumerated, it would be considered by the Judges as an infringement of the Constitution *which they are to guard*. They would not consider such a law as coming under their jurisdiction;—they would declare it void.” Again this most able and excellent man asks—“To what quarter will you look for protection from an infringement of the Constitution, if you will not give the power to the judiciary?”—Let this question be answered by those who deny this power. Let it be answered by pointing to some practical, effectual restraint upon the encroachments of the legislature, and

not by mocking us with a recurrence to the people at the ensuing election,—by telling us that the people of Georgia will turn out their representatives for an injury done to a citizen of Maine; or that Alleghany county will take a deep interest in an unconstitutional wrong done to Philadelphia; and if they do, what redress will it afford to the party injured? The evil must be *arrested*, the wrong *prevented*, or there is no effectual protection.

Mr. Grayson says, "If Congress cannot make a law against the Constitution, I apprehend they cannot make a law to abridge it. The Judges are to defend it."

In short, throughout the long and able discussion of the provisions and powers of the Constitution in all its departments, in the convention of Virginia, it was taken for granted on all hands, that the judiciary does possess the power we contend for; and that it is indispensable to the safety of our liberties, and the preservation of the Constitution, that they should possess it. This power was universally considered the anchor which holds the ship in safe moorings; without which, she would drift on destructive rocks, or be overwhelmed in turbulent whirlpools.

In the Convention of Pennsylvania, Mr. Wilson, who had also been a member of the General Convention, took a leading part. His opinions are entitled to great weight on this subject, not only from his acknowledged learning and ability, but from his particular knowledge of the views of the framers of the Constitution:—

"In order," says he, "to give permanency, stability, and security, to any government, I conceive it of essential importance, that its legislature should be restrained; that there should be not only what we call a *passive*, but an *active* power over it; for of all kinds of despotism, that is the most dreadful, and the most difficult to be corrected. With how much contempt have we seen the authority of the people treated by the legislature of this state!"

Again—

"I say, under this Constitution, the legislature may be restrained, and kept within its prescribed limits, by the interposition of the judicial department."

He states that the legislature may transgress the bounds assigned to it, and the Act may pass in the usual *mode*; but when it comes to be discussed before the Judges, and they "find it to be incompatible with the superior power of the Constitution, it is their duty to pronounce it void; and Judges independent will behave with intrepidity, and refuse to the Act the sanction of judicial authority."

These doctrines received neither denial nor doubt, from any party or member of the Convention; and passed as admitted and necessary truths.

In the debates of the Conventions of New-York and Massachusetts, so far as they are published, we find no particular dis-

cussion of this question; but enough to show a recognition of the judicial power now contended for.

Pursuing our design of exhibiting every thing that can support or illustrate our doctrine on this subject, we have examined the celebrated debate in the Congress of the United States on the bill for repealing the law "for the more convenient organization of the Courts of the United States." This debate took place in the beginning of the year 1802; and, as must be well remembered, produced a high excitement in the country as well as in Congress, and occasioned the utmost exertion of the talents of the rival parties in both houses. We recur first to the debate of the Senate:

Mr. *Mason* of Massachusetts:—

"On examination, it will be found that the people, in forming the Constitution, meant to make the Judges as independent of the legislature as of the executive; because the duties which they have to perform, call upon them to expound not only the laws, but the Constitution; in which is involved the power of checking the legislature, in case it should pass any laws in violation of the Constitution. For this reason, it was more important that the Judges in this country should be independent, than in other countries, where no such power attaches to them."

Mr. *Tracy*—

"If either," (the general or a state government,) "by accident or design, should exceed its powers, there is the utmost necessity that some timely checks, equal to every exigency, should be interposed. The judiciary is established by the Constitution for that valuable purpose." Again—"the judiciary are to be a check on the executive, *but most emphatically on the legislature* of the Union, and those of the several states." Mr. Tracy asks, "what security an individual can have, if a legislature should make his acts criminal, which were not so anterior to the passing of the law? None but an appeal to the judiciary, or to revolutionary principles and a civil war." The Constitution, he says, is supported by three independent pillars; "the judiciary is the centre pillar, and a support to each, by checking both."

Mr. *Mason* of Virginia denies the power; but merely observes, without going into the reasons of his opinion, "much less have I believed it proper, or that our Constitution authorizes our courts of justice, to control the other departments of government." This goes beyond Judge Gibson, who is willing that the federal courts shall assume this control.

Mr. *Stone* of North Carolina also denies this power to the judiciary, but offers nothing in support of his opinion. He refers us to the elections, to control the errors or usurpations of the legislature—a check which, it is obvious, is of no practical value.

Mr. *Morris*—

"Suppose, in the omnipotence of your legislative authority, you trench upon the rights of your fellow-citizens, by passing an unconstitutional law. If the judiciary department preserve its vigour, it will stop you short. Instead of a resort to arms, there will be a happier appeal to argument."

So far from its being degrading in a state to recall an act of illegality or injustice, Mr. Morris very finely remarks:—

"I believe the universe cannot afford a spectacle more sublime, than the view of a powerful state kneeling at the altar of justice, and sacrificing there her passion and her pride." "I beg gentlemen," says this distinguished orator and statesman, "to hear and remember what I say. It is this department alone, and it is the independence of this department, which can save you from civil war."

In another place he says—

"If we undertake to construe this Constitution to our purposes, and say that public opinion is to be our judge, there is an end to all Constitutions."

Mr. Ross—

"The gentleman ought to recollect that there is no analogy, in this respect, between our national government and that of Great Britain. There, an Act of Parliament can change the Constitution. Here, the written Constitution, established by the people, restrains the legislature to the exercise of delegated power; and fixes, immutably, certain bounds which it may not pass. If it should rashly exceed the delegated power, our judiciary, sworn to support the Constitution, must declare that the great *irrepealable statute made by the people*, shall restrain and control the unauthorized acts of agents who have exceeded the limits of a special authority."

Mr. Ross, after stating some strong cases of violations of the Constitution, destructive of contracts, public faith, and private security, says, "the legislature thus becomes a corrupt despotism, under which no wise man would live, and to which no freeman ought to submit."

Mr. Breckenridge fully and boldly avows that "the legislature have the *exclusive* right to interpret the Constitution, in what regards the law-making power, and the Judges *are bound to execute the laws* they make." We doubt if there is an American politician living, who will not shrink from the awful dangers of this doctrine. There has been an experience on this subject, since Mr. Breckenridge delivered this sentiment in the course of a heated debate, which has demonstrated that under it "there is an end of all Constitutions;" and that we should fall into a "corrupt despotism, under which no wise man would live, and to which no freeman ought to submit."

Mr. Morris replies to Mr. Breckenridge, with an irresistible force of reasoning; and we regret it is not in our power to transcribe his argument. He concludes with this undeniable position—that if the doctrine of Mr. B. be sustained, "*the moment the legislature of the Union declare themselves supreme, they become so*. The sovereignty of America will no longer reside in the *people*, but in the *Congress*, and *the Constitution will be whatever they choose to make it*."

In the *House of Representatives*, the power of the judges to control legislative acts, was frequently adverted to. Mr. *Henderson* of North Carolina distinctly asserts it; and calls the adverse opinion "a monstrous and unheard-of doctrine, which has lately been advanced; and truly declares, that under it "new offences may be created—associations and combinations may be

declared treason!" and the appalled citizen seek for refuge in vain in the courts.

Mr. *Hemphill* of Pennsylvania is clear and explicit on this point—calling the denial of this power to the judiciary, "a doctrine new and dangerous." He asserts that the judiciary, "from the nature of their institution, are to judge of the law, and *what is the law*. The Constitution is paramount and supreme: the Judge is bound by his oath to support it." He insists, that without this check, the Constitution cannot be preserved, from day to day, the same; "every construction put upon it by the different legislatures, will exhibit the appearance of a new Constitution—a Constitution to be tossed and blown about by every political breeze. The powers of Congress will be equal to the powers of the British Parliament, transcendent, splendid, and without control."

Mr. *Giles*, an acute debater, and a wily politician, does not choose to compromit himself in this matter. He says, "the Judges have determined that they are Judges in the last resort, upon the constitutionality of your laws. He proposed not to discuss this question, because he did not think it pertinent to the question before us."

Mr. *Bayard*, the accomplished lawyer and able statesman, maintains our doctrine with the force of reason and eloquence, which he never failed to apply to every subject important enough to deserve them. The judges were accused of pride and ambition, in presuming to call upon a state to submit to their decrees. "It is not," says Mr. B., "that I wish to see the states humbled in dust and ashes; it is not that I wish to see the pride of any man flattered by their degradation; but it is that I wish to see the great and the small, the sovereign and the subject, bow at the altar of justice, and submit to those obligations from which the Deity himself is not exempt." In another part of his speech, Mr. Bayard says, "Let me now ask, if the power to decide upon the validity of our laws resides with the people? Gentlemen cannot deny this right to the people. I admit, they possess it. But if, at the same time, it does not belong to the courts of the United States, where does it lead the people? *It leads them to the gallows.*" He illustrates this position by the case of an unconstitutional tax imposed by Congress; resisted by the people; who are thereupon charged with treason. If the courts are bound to execute the law, the accused must be condemned and executed. So, should Congress pass a bill of attainder, although expressly prohibited by the Constitution.

Mr. *Smith*, of Vermont, was in favour of passing the repealing law, nevertheless admits that "it is true, your Judges have authority, *derived from the nature of their power as Judges*, to decide in this way,"—that is, that a law is unconstitutional. He

says, it is the duty of a Judge "to decide a law void, which directly infringes the Constitution. When there is a Constitution of government, this principle is *inseparably united* with the judicial authority."

Mr. *Rutledge* maintains the right of the judiciary, in several parts of his argument; enforcing it by strong references in support of his doctrine.

Mr. *Griswold* gives the great power of his mind to the same cause; showing the necessity of power somewhere, to keep the legislature within its prescribed limits, and that it can reside nowhere with so much propriety and safety as in the courts.

"If there is no power to check the usurpations of the legislature, the inevitable consequence must be, that the Congress of the United States becomes truly omnipotent. All power must be concentrated here, before which every department and all state authorities must fall prostrate. Nothing can resist the attacks of your national laws upon the state sovereignties. Here is an end of your federal government. A consolidation of the states is the immediate effect; and in a few short years, these sovereignties will not even obtain the name."

Mr. *Dennis* of Maryland, and Mr. *Dana* of Connecticut, are very full and satisfactory, in their views of this question; and maintain what we deem to be sound doctrines, by a variety of arguments and illustrations of much force and point.

We proceed to the more laborious, and perhaps tedious examination of the judicial decisions that have taken place, of this question. We do this, not only to bring forward the convincing reasoning by which the courts have defended this right; but also because we maintain, that, as a legal or judicial question, Judge Gibson was judicially bound by the decisions, or some of them, which we shall produce; and that, sitting as a Judge, *the suitor before him had a right to the benefit of these decisions, as the established law of the land*, whatever the Judge, individually or politically, might have thought of them. There must be some time, and some way, in which every question, important to our rights, must be considered to be put at rest; or these rights will be forever fluctuating, with the judgments or caprices of successive Judges. No principle is better known in our courts than this. Suppose the claim of a suitor should depend upon the constitutionality of the incorporation of the Bank of the United States—once a sharp question of controversy, on which the most eminent men of our country differed radically and irreconcilably. Would any Judge, now, feel himself authorized, on his private personal opinion, however honestly entertained, that the charter was a nullity, to turn the suitor out of court, and ruin him. Or, if a Judge should take it into his head, that an estate given to a man and his heirs did not invest the grantee with a full power over it, because thereby his heirs would be defeated of their right—would he venture to pronounce such a judgment from the bench? The adjudications under the statute of frauds and the

registering acts, are striking examples of the implicit respect paid to decided principles.

We hesitate not to say, that there is no question that has received a more uniform, unequivocal, and authoritative decision, in the various courts of the states of our Union, than that which Judge Gibson has attempted now to disturb. We are aware that the case in which the Judge has come forth, arises under the Constitution and a law of Pennsylvania; and therefore he may be judicially authorized, if he feels strong enough to venture upon it, to disregard what has been done in the courts of the United States, and in those of other states of the Union, on this subject; although the principles and reasoning of the Judges in those cases, wholly embrace the case under Judge Gibson's examination. But there will be sufficient found in the courts of Pennsylvania, to have quieted Judge Gibson with an authority to which he was bound to submit. As we, however, have taken this occasion to bring the whole subject before our readers, we shall follow the decisions upon it, wherever we have been able to find them; and we trust we shall exhibit a mass of imposing authority and profound reasoning, in favour of the judicial power we sustain, that can hardly be collected on any other legal or constitutional point. Very soon after the organization of the government under the present Constitution, an occasion arose in which the Judiciary of the United States was called upon to decide upon the constitutionality of an Act of Congress, and, of course, to assert or disclaim their right to exercise this high control over the federal legislature. The Judges, after a full deliberation, assumed the power. It has since been followed up, through a course of nearly forty years, in which the courts of the United States have passed their decisions upon the Acts of the state legislatures, as well as of Congress; and in which the state courts have exercised the same power over their legislatures respectively. There is scarcely a state in the Union, in which this has not been repeatedly done; and it has invariably been acquiesced in by the legislatures, and by the people they represented. And is this question now to be judicially agitated, after so long a repose, with an assent and approbation that may be said to be universal? Is our great "centre pillar" to be overthrown or shaken by a breath, after standing so firmly on its base for so long a period?

The first meeting of the Supreme Court of the United States, was in February 1790, merely for the purpose of organization. In August 1791, they commenced doing business. On the 23d of March 1792, an Act was passed by Congress, entitled "An Act to provide for the settlement of the claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions." By this Act, the inva-

lids described were to be allowed such sum *as the Circuit Court of the district, in which they respectively resided, might think proper*. The court were directed to examine the nature of the wound or disability; to certify the same, and transmit to the Secretary of War the result of their inquiry, and their opinion upon the case. It was the duty of the Secretary to place such applicants on the pension list, unless he had cause to suspect imposition or mistake, when he should withhold the name from the pension list, and make report of the same to Congress.

It has been of inestimable benefit to our country, that, from the beginning, the bench of the Supreme Court has been filled with men of the highest eminence as lawyers and statesmen, who well understood the Constitution they were, in their department, to support and administer; who had intelligence to know what were their duties and powers, and independence and firmness to assume and discharge them. The court, in this instance, were called upon to perform a benevolent and agreeable task; and must certainly, at the very outset of the experiment of the government, have been exceedingly unwilling to create any jarring between the different departments. But their vigilance, their patriotism, and a solemn regard to their high functions, were wide awake; they were neither deluded by the kind office required of them, nor awed by the prospect of a collision with the national legislature. Had they yielded to such impressions, we know not whether the false and fatal step could have been retraced. The Judges declined, most respectfully, as became them, but most conscientiously, to execute the Act of Congress; not indeed in the form of a judicial judgment, for it was rendered unnecessary by the repeal of the law, in February 1793; but by a respectful and dignified representation to the President, in consequence of which the Act was repealed. Their reasons were fully and separately given; and the foundation was thus laid, soon after the adoption of the Constitution and the formation of the court, of this exercise of power, which has since been pursued, without hesitation, in every proper case; and without an attempt on the part of the people or their representatives, to impeach it or withdraw it.

In April 1795, the interesting case of *Vanhorne's Lessee vs. Dorrance*, was tried in the Circuit Court, Pennsylvania District, before Judges Patterson and Peters. The constitutionality of an Act of the legislature of Pennsylvania, or "whether the legislature had authority to make that Act," became a question necessary to be decided. The opinion of the court was delivered by Judge Patterson. We cannot boast of a more learned and sound lawyer, a more enlightened statesman, or a more sincere and honest patriot. We shall fearlessly give his *argument* on the question, notwithstanding the sneer of Judge Gibson, that it

“abounds with beautiful figures,” and that “metaphorical illustration is one thing, and argument another.” It might be some consolation to Judge Patterson, were he living, under the summary condemnation of our Judge, to know that other Judges of other state courts have received his opinion with the utmost respect; have adopted his argument; declaring his sentiments to be “the genuine effusions of a mind devoted to liberty, and ardently anxious to proclaim its true principles to the world.”

In the case of *Vanhorne vs. Dorrance*, this great and excellent Judge thus delivers himself:—

“Legislation is the exercise of sovereign authority. High and important powers are necessarily vested in the legislative body; whose Acts, under some forms of government, are irresistible and subject to no control.”

He instances the absolute and transcendent power of the Parliament of England:—

“It is omnipotent in the scale of political existence.” “In America the case is widely different: every state in the Union has its Constitution reduced to written exactitude and precision. What is a Constitution? It is the form of government delivered by the mighty hand of the people, in which *first principles of fundamental law are established*. The Constitution is permanent and fixed; it contains the permanent will of the people, and is the supreme law of the land; it is paramount to the power of the legislature, and can be revoked or altered only by the power that made it. The life-giving principle, and the death-doing stroke, must proceed from the same hand. What are legislatures? *Creatures of the Constitution*; they owe their existence to the Constitution; they derive their power from the Constitution. It is their commission; and therefore all their acts must be conformable to it. The Constitution is the work or will of the people themselves, in their *original, sovereign, and unlimited capacity*. Law is the work or will of the legislature in their *derivative and subordinate capacity*. The one is the work of the creator, and the other of the creature. The Constitution fixes the limits to the exercise of legislative authority, and prescribes the orbit within which it must move. In short, the Constitution is the sun of the political system, around which, all legislative, executive, and judicial bodies, must revolve. Whatever may be the case in other countries, yet in this there is no doubt that every Act of the legislature, repugnant to the Constitution, is absolutely void.”

The Judge then puts some strong cases of Acts of a legislature respecting religion; abridging the rights of conscience; of elections; of trial by jury; and asks, could the legislature annul them? He then proceeds:—

“I take it to be a clear position, that if a legislative Act oppugns a constitutional principle, the former must give way, and be rejected on the score of repugnance. I hold it to be a position equally clear and sound, that, in such case, it will be the duty of the court to adhere to the Constitution, and to declare the Act null and void. The Constitution is the basis of legislative authority; it lies at the foundation of all law, and is a rule and commission by which both legislators and Judges are bound to proceed. It is an important principle, which, in the discussion of questions of the present kind, ought never to be lost sight of—that the judiciary, in this country, is not a subordinate, but a co-ordinate branch of the government.”

This profound jurist here lays down certain undeniable and undenied political axioms, and, which admitted, his consequence follows in a direct and unquestionable course. And yet Judge

Gibson can see no argument in it ; he can discover nothing but "beautiful figures," and "metaphorical illustrations."

In February 1803, the celebrated case of "*Marbury vs. Madison*," was decided by the Supreme Court ; and the occasion required that Chief Justice Marshall should apply his mighty mind, "the strength of his ratiocinative powers," to this interesting subject. Judge Gibson admits that the Chief Justice does argue the question ; but pronounces the argument to be "inconclusive ;" and considers the right maintained by it to be "a professional dogma," held "rather as a matter of faith than of reason ;" although it is true he "once embraced the same doctrine, but without examination."

We hope we shall rather gratify than tire our readers by presenting to them the argument of the Chief Justice entire ; and let it be fairly compared with that which "compelled" Judge Gibson "to abandon" its heresies and its dogmas. If we addressed ourselves only to professional readers, this, as well as many other of our quotations, might be spared ; but the subject is not a professional one merely ; it is a great constitutional principle, in which every citizen has a deep stake, and thousands will examine it with interest, who may have no access to a lawyer's library. The opinion of the Chief Justice will be found to be brief, perspicuous, and unanswerable ; relying not on "faith," but abounding with clear reasoning and plain common sense ; altogether avoiding all subtlety and refinement, forming a striking contrast to the fallacious and wiredrawn sophistry with which the principles are assailed, but not shaken. We shall, unwillingly, but for brevity, omit to notice several cases in which the same court has exercised this power of restraining both the national and state legislatures, when stepping beyond their constitutional boundary. The principles settled in "*Marbury vs. Madison*," have been uniformly adhered to :—

"The question," says the Chief Justice, on delivering the opinion of the court, "whether an Act *repugnant to the Constitution*, can become the *law of the land*, is a question deeply interesting to the United States ; but happily, not of an intricacy proportioned to its interest. It seems only necessary to recognise certain principles, supposed to have been long and well established, to decide it. That the people have an original right to establish for their future government, such principles as, in their opinion, shall most conduce to their own happiness, is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion ; *nor can it, nor ought it to be, frequently repeated*. The principles, therefore, so established, are deemed fundamental. And as the authority from which they proceed is supreme, and can seldom act, they are designed to be permanent."

We pause to ask, if there is any thing dogmatic in this?—any thing requiring extraordinary faith to receive it?—any thing repugnant to reason? Is it not plain undeniable truth, which the most common intelligence can comprehend, and must assent to? And yet, in this single paragraph, there is enough of principle and

argument to maintain the position contended for. The people have a right to establish the principles of their government; the principles so established, are fundamental, supreme, and intended to be permanent; the exercise of this original power is a great exertion, and cannot be frequently repeated. It follows then, that the people, in forming such a government, must have intended to provide some maintaining power; some power to protect and preserve the principles they had established; to secure the supremacy and permanency of these principles from violation from any quarter; and the impossibility of a recurrence to their own original right, on every occasion of a violation, demonstrates that the power of keeping all right, was intended to be placed in some part of the system; and that no part but the judiciary can exercise it to any practical or effectual purpose, has already been made manifest.

The Chief Justice proceeds—

“This original and supreme will organizes the government, and assigns to different departments their respective powers. It may either stop here, or establish certain limits not to be transcended by those departments.

“The government of the United States is of the latter description. The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the Constitution is written. To what purpose are powers limited? and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if *Acts prohibited, and Acts allowed, are of equal obligation*. It is a proposition too plain to be contested, that the Constitution controls any legislative Act repugnant to it; or, that the legislature may alter the Constitution by an ordinary Act.

“Between these alternatives there is no middle ground. The Constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative Acts, and, like other Acts, is alterable when the legislature shall please to alter it.

“If the former part of the alternative be true, then a legislative Act, contrary to the Constitution, *is not a law*; if the latter part be true, then written Constitutions are absurd attempts, on the part of the people, to limit a power, in its nature illimitable.

“Certainly all those who have framed written Constitutions, contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be, that an Act of the legislature, repugnant to the Constitution, is void.

“This theory is *essentially attached to written Constitutions*, and is consequently to be considered, by this court, as one of the *fundamental principles of our society*. It is not therefore to be lost sight of in the further consideration of this subject.”

We would beg our readers to remark, that the argument is not drawn from any clause or phrase in the Constitution; but the power of the court is claimed and maintained as “essentially attached to written constitutions;” as a “fundamental principle of our society.” Until, therefore, Judge Gibson can remove the great principle on which the Chief Justice builds his argument, it is entirely useless for him to endeavour to make a distinction

“between Acts that are repugnant to the Constitution of the particular state, and Acts that are repugnant to the Constitution of the United States.”

The Chief Justice, having laid this strong and immovable foundation, that a legislative Act, repugnant to the Constitution, “*is not a law* ;” that it “*is void* ;”—proceeds to show the right of the court to refuse to execute it.

“If an Act of the legislature, repugnant to the Constitution, is void, does it, *notwithstanding its invalidity*, bind the courts, and oblige them to give it effect? or, in other words, though it be not a law, does it constitute a rule as operative as if it was a law? This would be to overthrow in fact, what was established in theory; and would seem, at first view, an absurdity too gross to be insisted on. It shall, however, receive a more attentive consideration.

“It is emphatically the province and duty of the judicial department to say *what the law is*. Those who apply the rule to particular cases, must, of necessity, expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each. So, if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case, so that the court must decide that case, conformably to the law, disregarding the Constitution; or, conformably to the Constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. *This is of the very essence of judicial duty*. If, then, the courts are to regard the Constitution; and the Constitution is superior to any ordinary Act of the legislature; the Constitution, and not such ordinary Act, must govern the case to which they both apply.”

The Chief Justice proceeds—

“Those, then, who controvert the principle, that the Constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the Constitution, and see only the law. This doctrine would subvert the very foundation of all written Constitutions. It would declare that an Act which, according to the principles and theory of our government, is *entirely void*; is yet, in practice, *completely obligatory*. It would declare, that if the legislature should do what is expressly forbidden, such Act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the legislature a practical and real omnipotence, with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits, and declaring that those limits may be passed at pleasure.

“That it thus reduces to nothing, what we deemed the greatest improvement on political institutions,—a written Constitution,—would of itself be sufficient, in America, where written Constitutions have been viewed with so much reverence, for rejecting the construction. But the peculiar expressions of the Constitution of the United States, furnish additional arguments in favour of its rejection.”

The Chief Justice goes on, not to rest his argument on any expressions of the Constitution, for he has placed it on great and immutable principles, but to strengthen it by a recurrence to various provisions of that instrument—which can be preserved only by the protecting power of the court; and which, if left to Judge Gibson’s remedy, “the instructions of the people to their representatives to repeal the obnoxious act,” might be subverted to the murder, plunder, and oppression of our citizens, without the possibility of redress. For instance, if the legislature should pass a Bill of Attainder against one, or one hundred of our citizens, whom it might be convenient for some party purpose to get out

of the way—on Judge Gibson's theory, the court must condemn the victims to death, in direct violation of the Constitution, and trust to instructions from the people to their representatives, to repeal the obnoxious Act, some months after the murdered objects of legislative despotism are rotten in their graves. So, of many other cases, in which the remedy, by a repeal of the law, would be equally ineffectual and absurd. To *preserve* the Constitution, you must have a power to *prevent* its violation; and not merely to recall the obnoxious Act, after the mischief is consummated. Against such acts of violence from the national legislature, Judge Gibson is willing to find protection in the courts of the United States, who may stay the bloody hand of the executioner; but although the Constitution of Pennsylvania also declares, that "no person shall be attainted of treason or felony by the legislature," he lets us know, that if such an Act should be passed, he will execute it from the bench of justice, and refer his victim to instructions from the people to their representatives, for redress. How these instructions are to be obtained, and what shall be deemed the instructions of *the people*, we are not informed. Are they to be had at town meetings—or by petitions? Must they come from a majority of all the people of the state, and how is the majority to be ascertained? Before such a remedy could be applied, the Constitution might be scattered to the winds, and the whole country groan under a legislative, irresponsible despotism. Convulsion and civil war are the only refuge from this worst of all despotisms, if we can find none in our courts, the sanctuaries of justice and of the law.

The Chief Justice refers to the oath of office prescribed to the Judges, in which they swear to discharge their duties, *agreeably to the Constitution*, as demonstrative of the legislative opinion on this subject.

It is certainly to be regretted, that such an argument as the Chief Justice has put forth, has failed to convince Judge Gibson, that the judicial power contended for is vested in our courts, as inseparable from the theory of our government, and essential to our rights and liberties under it. The apprehension of danger, however, from the Judge's heresy, is diminished by the consideration that he is the *only Judge in all these United States*, who is afflicted with this weakness; or at least, as far as our research has gone, who has judicially exposed it. On the other hand, the doctrines of Chief Justice Marshall have been recognised, adopted, enforced, and acted upon, by the courts of almost every state. We had made abstracts of the cases in which the question has occurred, and of the opinions delivered upon it, with an intention of introducing them into this article; and it is with much regret we relinquish the design, on account of the length to which they would extend our review. We shall, nevertheless,

refer such of our readers as may have the leisure and means to pursue the subject, to the reports containing the cases, in which they will find a body of constitutional law, and sound judicial reasoning—of a discreet and respectful tenderness towards a co-ordinate department, with an honourable independence and firmness in the discharge of a high trust, which afford a ground for unlimited confidence in our Judges, and a just pride in their learning and integrity.

We will premise, as introductory to the perusal of these cases, that they apply, without discrimination, (for there is no plausible ground of difference,) as well to state courts, Constitutions, and laws, as to those of the United States. No such distinction has been relied on, not because “the plain difference” has been “hitherto unnoticed,” as Judge Gibson supposes; but because he alone has thought the difference of the least importance to the question. And secondly; that although Judge Gibson thinks the “examples of monstrous violations of the Constitution,” put by Judge Patterson in the case of “*Vanhorne vs. Dorrance*,” are too improbable to be used as arguments, and would of themselves “be a revolution;” yet it will be seen that violations as clear and unequivocal as those supposed by Judge Patterson, though not of such general interest, have been made by legislatures, and, if not at once checked, would probably have proceeded to more monstrous acts of usurpation. And here we may remark, that although the public indignation might be roused on the invasion of some general, important, political right, it could hardly be excited in a case of individual injustice and oppression; and yet, has not *every* citizen as complete a right to the protection of the Constitution as *all* the citizens? In the cases cited, we shall see instances in which state legislatures take upon themselves to hear causes previously decided by the courts; calling the parties before them; hearing the evidence; and reversing the Judgment of the Court. We shall see them ordering a court to give a new trial, and receive evidence which on the previous trial the court had rejected as illegal. In the same manner we shall find them usurping, directly, executive powers; thus endeavouring to take possession of all the authority of the government; and unite in themselves the three branches of power, whose union is the very essence of despotism. The judiciary did stop, and alone could stop this overthrow of every constitutional right; this career to revolution and ruin. In these particular cases, what remedy could have been had by instructions from the people to their representatives; by elections—or by the people in any shape or manner?

We refer our readers to decisions in the courts of *fourteen* of the United States, affirming and exercising this controlling pow-

er over the legislative department; acquiesced in by the people, as well as by their representatives.—

NEW-HAMPSHIRE.

Mayo <i>vs.</i> Wilson,	- -	Adams's Reports,	- -	p. 54
Dartmouth College <i>vs.</i> Woodward,	- -	- -	- -	111
Merrill <i>vs.</i> Sherburne,	- -	- -	- -	199

MASSACHUSETTS.

Stoughton <i>vs.</i> Baker,	- -	4 Massachusetts Reports,	- -	522
Thaxter <i>vs.</i> Jones,	- -	4	- -	570
Hawkes <i>vs.</i> Kennebeck,	- -	7	- -	461
Call <i>vs.</i> Hagger,	- -	8	- -	430
Holder <i>vs.</i> James,	- -	11	- -	396
Portland Bank <i>vs.</i> Apthorp,	- -	12	- -	252
Adams <i>vs.</i> Howe,	- -	14	- -	345
Wetherbee <i>vs.</i> Johnson,	- -	14	- -	412
King <i>vs.</i> Dedham Bank,	- -	15	- -	454
Foster <i>vs.</i> Essex Bank,	- -	16	- -	270

VERMONT.

Dupy <i>vs.</i> Weckwere,	- -	1 Chipm.	- - - - -	237
Starr <i>vs.</i> Robinson,	- -	1	- - - - -	257

CONNECTICUT.

Smith <i>vs.</i> Mead,	- - -	3 Connecticut Reports,	- -	253
Hammet <i>vs.</i> Anderson,	- -	3	- -	304
Calder <i>vs.</i> Bule,	- -	2 Root,	- - - - -	350

NEW-YORK.

Gardner <i>vs.</i> Newburgh,	- -	2 Johnson's Ch. Reports,	- -	166
Mather <i>vs.</i> Brick,	- -	16	- -	233
Roosevelt <i>vs.</i> ———,	- -	17	- -	108
The People <i>vs.</i> Platt,	- -	17	- -	185
Gibbons <i>vs.</i> Ogden,	- -	17	- -	488
Barker <i>vs.</i> The People,	- -	17	- -	457

NEW-JERSEY.

Marsten <i>vs.</i> Seabury,	- -	2 Pen.	- - - - -	435
Vanuxem <i>vs.</i> Haglehurst,	- -	1 South.	- - - - -	192
Olden <i>vs.</i> Hallet,	- -	2	- - - - -	466

PENNSYLVANIA.

In this state, the power has been asserted by the Judges, in various cases; but the court has not been called upon to declare it judicially, except in one instance; in which the obnoxious Act was repealed, previous to the judgment of the court. We however refer to some of the cases, in which the Judges have given their opinions on the subject.

Respublica <i>vs.</i> Duquet,	- -	2 Yeates,	- - - - -	493
Stoddert <i>vs.</i> Smith,	- -	5 Binn.	- - - - -	355
Emerick <i>vs.</i> Harris,	- -	1	- - - - -	416
Austin <i>vs.</i> Trustees,	- -	1 Yeates,	- - - - -	260
Moore <i>vs.</i> Houston,	- -	3 Sergeant & Rawle,	- -	169
Farm. & Mech. Bank <i>vs.</i> Smith,	- -	3	- -	63
Commonwealth <i>vs.</i> Franklin,	- -	2 Dall.	- - - - -	255
Commonwealth <i>vs.</i> Smith,	- -	4 Binn.	- - - - -	117

MARYLAND.

Egan <i>vs.</i> Clk. C'y. Court,	-	3 Harr. & M'H.	-	-	-	169
Campbell <i>vs.</i> Murry,	-	3	-	-	-	535. 552
Whittington <i>vs.</i> Polk,	-	1 Harr. & J.	-	-	-	236

VIRGINIA.

We have shown the opinions of the courts of Virginia, on this subject.

NORTH-CAROLINA.

State <i>vs.</i> ———	-	1 Hayw.	-	-	-	28
Trustees <i>vs.</i> Foy,	-	2	-	-	-	316. 374
State <i>vs.</i> Knight,	-	1 Tayl.	-	-	-	65
Bank <i>vs.</i> Taylor,	-	1 Car. Law Rep.	-	-	-	246
Jones <i>vs.</i> Crittenden,	-	1	-	-	-	385
Derr <i>vs.</i> Foy,	-	1 Murph.	-	-	-	66

TENNESSEE.

Williams <i>vs.</i> The Register,	Cooke,	-	-	-	-	217
Bass <i>vs.</i> Dinwiddie,	-	-	-	-	-	130
Miller <i>vs.</i> Holt,	-	1 Tenn. Reports,	-	-	-	243

SOUTH-CAROLINA.

Byrne's Adm. <i>vs.</i> Stewart,	-	3 Dessauss.	-	-	-	466
Lindsay <i>vs.</i> Commissioners,	-	2 Bay,	-	-	-	61
Coke <i>vs.</i> Hoff,	-	2 Const. Reports,	-	-	-	659
Belcher <i>vs.</i> Commissioners,	-	2 M'Cord,	-	-	-	23
State <i>vs.</i> Allen,	-	2	-	-	-	55
		2	-	-	-	503
State <i>vs.</i> Hutson,	-	1	-	-	-	242
Ham <i>vs.</i> M'Claws,	-	1 Bay,	-	-	-	98

KENTUCKY.

Amy <i>vs.</i> Smith,	-	1 Litt.	-	-	-	326
Hoy <i>vs.</i> M'Murry,	-	1	-	-	-	368
Bliss <i>vs.</i> Commonwealth,	-	2	-	-	-	90
Carson <i>vs.</i> Commonwealth,	-	1 Marsh.	-	-	-	290
Ely <i>vs.</i> Thompson,	-	3	-	-	-	70

GEORGIA.

White <i>vs.</i> Wayne,	-	Charlt.	-	-	-	106
Lloyd <i>vs.</i> Smith,	-	—	-	-	-	143
Gremball <i>vs.</i> Ross,	-	—	-	-	-	175
Clerk of Camden County,	-	—	-	-	-	191

The late Judge Cooper, now President of the South-Carolina College, who is second to no man in his devotedness to state rights, and in zeal to draw the federal powers into as narrow limits as possible, speaks of our subject, in a late essay "On the Constitution of the United States." He says, the Constitution is the supreme law; that the Judges, sworn to decide according to law, must take notice of this supreme law; they cannot shut their eyes to it; and that "in cases of doubt or conflict, it is *their duty to determine.*" He says, "*there is no gainsaying the able argument of Chief Justice Marshall, in Marbury *vs.* Madison; nor is there any other tribunal appointed for this indispen-*

sable duty." He does not think the argument "inconclusive," nor the principle a matter "rather of faith than of reason."

Such is the mass of authority and reason, against which Judge Gibson has opposed himself—with what success, our readers will judge. He takes his ground with a confidence which may impress us with the sincerity of his opinion; but we can promise him no other satisfaction.

In favour of this power of the judiciary, we have the opinions of the great men who formed the government, and may be presumed to understand the powers intended to be given to the different departments; we have the repeated judgments of the Supreme Court of the Union; we have the judgments of the superior courts of a great majority of the states, uncontradicted by a single judgment of any court of any state; we have the opinion of the Congress of the United States, who have acquiesced in the abrogation of their enactments; we have the same acquiescence on the part of the legislatures of some of the most powerful states of the Union; we have the opinion and approbation of the people of these United States, who, if they had believed the judiciary had usurped a power not intrusted to them, or exercised rightfully a power dangerous to them, would, long ere this, have found a remedy for the evil. On the contrary, amidst the numerous and various projects and propositions for altering or explaining the Constitution, originating sometimes in Congress, sometimes with state legislatures, and sometimes at popular meetings, we know of no suggestion to deprive either the national or state judiciaries of this power, which they have so repeatedly and so openly exercised, and in cases of great interest and excitement.

It was our first intention, to examine the reasoning of Judge Gibson on this question; and we hope to have a future opportunity of doing it. Our readers see the impossibility of undertaking it on this occasion; and for the present, we shall cheerfully trust our case to the armament we have arrayed against the Judge. We cannot, however, leave him, without adverting to two errors he has committed; and which show, with how little examination he plunged into the opinion he has given. If he abandoned the doctrines of Chief Justice Marshall, because he had embraced them "without examination;" we assure him, he has the same reason for giving up the ground he has now taken.

His first sentence contains a mistake, in point of fact, which he could not have committed with a due examination of his subject. He says, "it seems to me, there is a plain difference, *hitherto unnoticed*, between Acts that are repugnant to the Constitution of a particular state; and Acts that are repugnant to the Constitution of the United States; my opinion being, that the judiciary is bound to execute the former, but not the latter."

Permit us first to ask, if it be possible that Judge Gibson imagined that, in the various discussions this subject has undergone in Conventions, in Congress, and in courts; this distinction could have been overlooked, had there been any thing in it? The occasion for applying it, has occurred again and again; but it has been passed by with deserved neglect. Do not the principles and reasoning of Chief Justice Marshall embrace both cases? His argument is good for both or for neither; they must stand or fall together.

But the Judge is mistaken in saying the difference, whatever it may be worth, has been "hitherto unnoticed." It is suggested, but discarded, in some one of the cases reported; we have not a recollection of the case—we therefore go to other proof.

In the first volume of "Browne's Reports," p. 199, published in 1813, an argument from the pen of Justice Brackenridge is introduced, "on the right of the judiciary power to judge of the constitutionality of a law." We will premise, that in this examination of the question, we not only have the difference, claimed by Judge Gibson as his peculiar discovery, but also his notion of seeking redress against unconstitutional Acts of the legislature, by the people themselves instructing their representatives. Judge Brackenridge, however, in his usual wary manner, throws out these suggestions, without exactly adopting them, or denying the judiciary power. "In the case of a law of the United States," says Judge Brackenridge, "it will be found that a power in the state courts, and in the courts of the United States, to resist the execution of a law, on the ground of unconstitutionality, is necessary to individual or state right." So says Judge Gibson. Judge Brackenridge proceeds, marking a difference in the cases. "And the same power in the state courts, with regard to our state Constitution, though it may be the spirit of the time to frown upon it, and to run it down, may come to be understood and acknowledged as an essential principle of freedom." This boasted difference is clearly adverted to, but sagaciously rejected; and the contrary doctrine sustained "as an essential principle of freedom." The manner in which Judge Gibson has bewildered himself in abstract reasoning, is pointed out in the following sentence.—"The exercise of this power, *in a case of abstract deduction*, and not immediately comprehensible by the common mind, may excite a prejudice, and set the public mind against it. That may be lost in practice, which exists in contemplation."

Judge Brackenridge observes, that every state, and every citizen of a state, will look to the judiciary, as a barrier between them and the encroachments of the Union; and then most justly says, "*under the Constitution of the state, there must be the same rights to the parties to the compact.* In the one case, specified powers are given; in the other, rights are reserved."

Who first suggested this difference, in relation to judicial power over legislative Acts, we do not pretend to know. It may have sprung up in some of those newspaper disquisitions, which once assailed every exercise of federal power, and laboured to cripple and confine it within the narrowest limits, while the omnipotence of states, and their legislatures, was exalted to the uttermost.

The other error we will advert to, as showing how imperfectly Judge Gibson investigated this subject, is his most extraordinary declaration, that, "although the right in question has all along been claimed by the judiciary, *no Judge has ventured to discuss it*, except Chief Justice Marshall." We can hardly trust our eyes, when we read this sentence; and those of our readers who will turn to the cases we have cited, will find it has been repeatedly discussed by Judges, much at large and with great ability, particularly in the courts of New-Hampshire, Maryland, North-Carolina, South-Carolina, and Kentucky; and in Pennsylvania too, it has received a considerable examination.

We must always bear in mind, that the judiciary do not claim a right directly to annul an Act of the legislature, by virtue of a superior or superintending power over that department; which would be an exercise of what, I presume, the Judge calls a "political power." If they possessed such an authority, it would be competent to them, immediately on the passing of an unconstitutional Act, to declare it void. No such interference with the legislature is pretended—no such superiority over them claimed. But when the judiciary are called upon to execute the illegal Act—to become *parties and auxiliaries to the usurpation*, they may, not as a superior, but as a *co-ordinate* branch of the government, refuse this participation in the wrong; and use their own judgment in deciding it to be so. This they do *judicially*, or *civilly*, and not *politically*, in the strictest sense. The courts step not aside to know what the legislature has done; to supervise or control their proceedings. They sit in their own halls; they are confined to their own tribunals, and lay their power upon nothing that is not brought there for their judgment. They seek no officious interference with the other departments of the government, or in the concerns of the citizen. Their authority is exercised only when it is appealed to; their protection is afforded only when it is rightfully claimed. Should an Act of any legislature be a most decided encroachment on the executive power, and the president should choose to submit to it, and surrender his rights, the judiciary would not stir a finger to restrain the one, or protect the other. This would be to assume political superiority. Or should the Act be an absolute and unwarranted invasion of the rights of a citizen, and he should silently yield to it, the judiciary would make no movement in his behalf. But if, in the ordinary course of their judicial duty, the Judges should

be necessarily required to render their judgment upon such an Act—to give it operation and effect upon some suitor, demanding of them the protection of the Constitution and the law, can they refuse to give it? Must they actively unite in an unjust and unauthorized wrong; and become the instruments of oppression, believing and knowing it to be oppression? Shall they use their constitutional power to violate the Constitution, which they have sworn to maintain? Can they use the sword to destroy, which was given to save; and trample upon the rights and liberties of the people, by the very power which the people bestowed for their preservation? This would be to add treachery to violence; to be unfaithful guardians, as well as usurping despots. Yet such must be their character, and our condition, whenever it shall be understood and received as a principle of our government, that the judiciary are bound to consummate every wrong the legislature may devise.

ART. X.—FLORIDA.

- 1.—*An Account of East Florida.* By W. STORK, M. D. *With a Journal kept by JOHN BARTRAM, of Philadelphia, Botanist to His Majesty, on a Journey from St. Augustine, up the River St. John.* 8vo. London: 1765.
- 2.—*Travels in North and South Carolina, Georgia, East and West Florida, &c. &c.* By WILLIAM BARTRAM. 8vo. Philadelphia: 1791.
- 3.—*Sketches Topographical and Historical of the Floridas, more particularly of East Florida.* By J. GRANT FORBES. With a map of Colinton. New-York: 1821.
- 4.—*Notice of East Florida, with an Account of the Seminole Nation of Indians.* By a recent Traveller in the Province. Charleston: 1822.
- 5.—*Observations upon the Floridas.* By CH. VIGNOLLES. New-York: 1823.
- 6.—*Oration delivered before the Florida Institute of Agriculture, Antiquities, and Sciences.* By Colonel JAMES GADSDEN. Tallahassee: 1827.
- 7.—*A View of West Florida.* By JOHN LEE WILLIAMS. With a map of West Florida. Philadelphia: 1827.

NOTWITHSTANDING the numerous sketches and treatises hitherto published on the subject, the extensive regions now

designated by the beautiful name of FLORIDA, remain comparatively unknown, even to Americans. The flat and uninteresting appearance of its shores had induced many who have skirted the coast to conclude, that the whole country was little better than a dreary succession of sands, marshes, and lagoons, fit for few other inhabitants than reptiles or beasts of prey. The descriptions given by landjobbers, and others interested in the sale of property, are quite in the other extreme, and commonly consist of a series of exaggerations, which bestow fertility and beauty with a lavish hand, sinking all other parts of the continent into insignificance, in comparison with their newly-discovered terrestrial paradise.

The world has at present sufficient experience to be very slightly injured by such inaccuracy or extravagance, being in general prepared to make due allowance for the rash ignorance of one party, and the interestedness of the other. In all cases, the judgment is to be withheld until a more discriminating examination be made, and facts have been sufficiently accumulated to serve for the basis of a correct account. As the present appears to be a favourable opportunity for exhibiting a satisfactory view of this interesting portion of our country, we shall present a sketch of its civil and natural history, compiled from the most authentic sources, prior to a notice of the merits of the works whose titles are prefixed.

The whole of the vast territory east of the Mississippi, discovered in 1496 by Sebastian Cabot, for a long time bore the name of Florida. This title is now restricted to the country forming the southern extremity of the United States, lying between 25° and 31° north latitude, and 3° and $3^{\circ} 10'$ west longitude; which is bounded on the north by Alabama and Georgia, on the east by the Atlantic, and on the south and west by the Gulf of Mexico. The figure of the land is nearly triangular, having its basis towards the north, and its apex extending for about 385 miles towards the south,* where it is rather less than two degrees distant from the celebrated island of Cuba.

Cabot has the honour of being the first discoverer of this part of the continent; but it was Ponce de Leon, who first actually took possession of the land. It was on Easter day, 1512, that he arrived, at the season when the vegetation being in fullest luxuriance, the earth was profusely decked with flowers: he therefore bestowed the name of *Pascha Florida*, significant of the period of his arrival, and the blooming prospects which were on all sides presented. The vivid descriptions given of this country on the return of the expedition to Europe, served to excite the cupidity of various sovereigns, and eventually led to much mis-

* The mean breadth is computed to be 150 miles.

chief and bloodshed, in the settlement of claims growing out of supposed rights of discovery, possession, and conquest.

Between the years 1520 and 1524, three voyages were made, for the purpose of exploring or taking possession of Florida: one by Vasquez, who sailed from St. Domingo; a second by De Verazini, a Florentine; and the third by a Spaniard, named De Geray. The Emperor Charles V. made a grant to Pamphilo de Narvaes, of all the country lying between Cape Florida and the river Palmos, in the Gulf of Mexico. Narvaes commenced his voyage in the spring of 1528, and landed at Apalachee. He was met by the natives with the most hostile disposition, and determined resistance to his encroachments; and after various adventures, was finally shipwrecked in the vicinity of the river Palmos, where he perished with nearly all his crew.

The next who adventured to Florida, was Ferdinand de Soto, in the year 1539. After visiting various and remote parts of the country, and encountering numerous vicissitudes, he died in 1542, near the Mississippi river.

In the year 1560, a number of French Protestants sought refuge from intolerance in their native land, by emigrating to the wilds of Florida, where they hoped to enjoy liberty of conscience, at the expense of great privation. But their expectations were cruelly disappointed; for in 1564, the King of Spain, who who claimed the country by right of discovery, sent out a force to displace them. The greatest barbarities were inflicted upon these unfortunate beings, whose habitations were destroyed; many of them were put to death, and some were hung upon trees, with inscriptions over them, stating that they were thus treated, "not as Frenchmen, but heretics." The French were not long, however, in exacting fearful retribution for these outrages against human nature. A Gascon, of great bravery and most determined resolution, raised a body of men, which he strengthened by the addition of a party of Indians. Breathing vengeance against the Spaniards, they stormed the fort, and executed the surviving Spaniards, upon the trees which still bore the bleaching skeletons of the unfortunate French settlers. Over the bodies of the Spaniards inscriptions were suspended, declaring that they were thus executed, "not as Spaniards, but as murderous cut-throats."

These events were not sufficient to deter the Spaniards from again endeavouring to secure possession of Florida, as in 1565 they established the fort and town of St. Augustine; this place was taken and plundered, in the year 1586, by the English admiral Drake. The northern coast of Florida had nominally been taken possession of for the Queen of England, by Amidon and Barlow. For a century subsequent to this period, the history of Florida is a blank.

In 1682, De La Salle visited Florida, and advanced as far as the country of the Illinois. About 1696, the French settled Pensacola, where they were subjected to great distresses and privations. So great was their discouragement, that the Abbé Raynal informs us, they would have altogether relinquished their enterprise, but for the ideas they indulged relative to the medicinal virtues and commercial importance of the sassafras tree, which grew abundantly in their immediate vicinity.

The Spaniards established in Florida, were much annoyed and injured both by the English and other buccaneers, and by the inroads of the neighbouring colonists. Governor Moore of Carolina, with an army of nearly a thousand men, regular troops and Indians, made, in 1702, an attack upon St. Augustine, but was obliged to retire with the loss of his vessels and munitions of war, after a siege of three months. The Carolinians, however, took the fort of St. Mark's, in the year 1704, after which time, Florida enjoyed several advantageous years of peace.

The country appeared to be of too much value to remain long undisturbed by the neighbouring governments. Oglethorpe, who founded a colony in Georgia, raised a force of about one thousand men, in the year 1740, and made an attempt to gain possession of St. Augustine, but was repulsed with so much vigour and effect by the Spaniards, that he was forced to draw off with considerable loss. A year before going upon this expedition, he had made a treaty with the Indians, by which it was arranged, that the lands between the Savannah and St. John's rivers, along with the adjacent islands, to Apalachicola bay, should belong to the Creek Indians. He also built a chain of forts from Frederica to St. John's, some of which still remain.

Between this period and the year 1763, when the claims of Spain, England, and France, were finally adjusted by treaty, few events of especial importance are recorded. By the treaty of 1763, the whole of Florida was given by Spain to England, in lieu of the island of Cuba, which a short time previously had been taken by the British. Under the latter government, the territory was divided into East and West Florida, which were separated from each other by the Apalachicola river. Settlers were invited by proclamation, and the most liberal terms were offered to emigrants. This policy caused a considerable influx of respectable inhabitants from the neighbouring colonies, and upwards of 1500 Greeks, Italians, &c. arrived from the Mediterranean. They formed a settlement about sixty miles from St. Augustine, for the purpose of cultivating the sugar-cane and indigo.

At the period of the American Revolution, a very small number of the inhabitants of Florida were in favour of the colonists. The mass of the people, Spaniards as well as English, were devoted to the royal cause, and by fitting out privateers, and excit-

ing the Indians to acts of hostility, caused great annoyance along the southern coasts and frontiers. The Americans, it is true, were not passive under these aggressions, but in many instances returned the injury in kind. Valuable reprisals were occasionally made, as in the case of the large quantity of gunpowder, captured off the bar of St. Augustine, by the Carolina privateersmen, in 1775.

The frontiers of Florida continued to be the seat of a vexatious and predatory war, until the year 1779, when General Prevost, the British governor, resolved to carry the war into the state of Georgia. He raised a considerable body of troops, regulars and Indians, and marching into Georgia, took possession of Sunbury, Augusta, and Savannah. By invading Georgia, however, he left his own territory exposed to the Spaniards, who immediately profited by his absence. Don B. de Galvez set out with a strong force in 1781, and soon gained possession of Baton Rouge, and successively of Pensacola, and the whole of West Florida. This territory remained in the possession of Spain, until after the peace of 1783, when Great Britain finally relinquished both Floridas.

In consequence of the purchase of Louisiana from France, and the cession of that territory to the United States, in the same extent as Spain had previously ceded it to France, the United States made claim to the country west of the river Perdido, and occupied all the important posts, with the exception of Mobile. This was given up to the American authorities about a year after. East Florida was retained by Spain, until after the year 1812. As the Spaniards had violated their neutrality, by permitting an expedition to be fitted out in Pensacola against the United States, General Jackson resolved to take possession of it; which he effected, and shortly afterwards returned to Mobile. He invaded Florida a second time, in consequence of the aggressions of the Seminole Indians, which were rather encouraged than repressed by the Spanish authorities, within whose limits they resided. He entered the Spanish territory in pursuit of the Indians, and finally took Fort St. Mark's, and Pensacola, which he held until 1818, when they were restored to Spain. The whole of Florida, after much tedious negotiation, was finally transferred to the United States by treaty, and was taken possession of by General Jackson in 1821, when the American territorial government was established.

The Territories of the United States constitute a singular and interesting feature of the American Union, and are particularly worthy of philosophic attention. In ancient times, states teeming with an exuberant population, sent colonies to seek their fortunes in distant and unexplored regions. Once separated from the mother country, they were left to their own exertions, and

very rarely afterwards were concerned in the political movements which occurred. The modern system of colonization, was altogether founded upon the self-interest of the metropolis, for whose welfare, wealth, and convenience, the colonies and their inhabitants were always liable to be sacrificed. The provinces of the Republic bore the same relations to Rome, and their inhabitants to Roman citizens.

This selfish policy necessarily caused a reaction, the gigantic effects of which were seen at the conclusion of the last, and the commencement of the present century. It would have been the grossest infatuation, had the successful opponents of this selfish policy adopted it themselves, in the settlement of their immense territories. An entirely new system of colonization was adopted, which, in the lapse of thirty years, has nearly doubled the original number of the United States. It appears, in fact, that, taught by its own experience and our example, the only power which now possesses any colonies of magnitude, is endeavouring at a distance to follow our plan, and calculates upon the eventual independence of its remaining colonies.

This new policy was not designed to create subject provinces, but to establish sister states. An immense extent of country was to be wrested from the scalping Indian, to be made the abode of peace, civilization, and the arts, and to be thronged with an enlightened population. To secure these results, infant governments of the most simple kind were to be established in the wilderness, under the paternal care and guardianship of the Union, and remain in that state of minority, until they acquired sufficient age and strength to assume their places, on an entire equality with the other branches of the family.

As early as the year 1780, Congress resolved that such lands as should be obtained from the states, or Indians, should be formed into independent states. The first cession of lands was made by the state of New-York in 1781. Virginia followed the example in 1784, with an express condition that the lands should be appropriated to the formation of states. North-Carolina did the same in 1790, and Georgia in 1802. Although the basis of territorial government could be traced for a few years before, perhaps in the organization of the district of Kentucky, it was not regularly established, previously to the year 1787—the era of an Act of Congress for the government of the North-Western Territory. This model was applied, without any material alteration, to the territories of Tennessee, Indiana, and Michigan.

The people were allowed the privilege of self-government to a certain extent: the executive and judiciary were appointed by the United States, and the legislature was elective, being divided into two branches, one to remain in office during five, the other and more numerous branch to continue in office for two years.

Elections, however, were not to take place, until the population amounted to three thousand souls.

The first material change of this model was made for the Mississippi territory, where the people were entitled to a legislature of nine members, whatever might be the number of citizens. The next very important alteration occurred in 1804, in forming the government for the territory of Orleans, since constituted the state of Louisiana. The legislative council in this territory was to be appointed by the President, and formed the entire government. Even trial by jury, except in capital cases, was left at their option.

The government of the Florida territory was a copy of that of Orleans. The first legislative councils were appointed by the President, and always contained a large majority of new comers, speculators or grantees, having in general personal interests directly opposed to those of the people, and of the United States. An entirely new system of legislation was patched up at every session, and scarcely could it be printed and circulated, before a new council would overturn all the notions of law and equity. The county courts, it is believed, have been organized differently, not less than *four times* in five years. Some of these evils were lessened in 1826, by the Act of Congress, vesting the election of members of the council in the people; but the most important defects are still continued. A new council is elected annually, and abrogates all the laws of the last session before they are fairly known. No permanency nor benefit can be expected under such legislation, as the people are continually wearied and puzzled to know the laws by which they are to be directed. Nothing but the good sense and correct conduct of the inhabitants, renders the government of Florida any thing better than a state of perfect anarchy. The judiciary department, in an especial degree, requires a thorough reformation.

The territories of Orleans and Florida have had to encounter difficulties of great magnitude, and of the most discouraging character. Florida, especially, wanted such a river as the Mississippi, by which settlers might approach. The other territories were settled by Americans. They offered no hindrance to civilization, but from rude nature, or from the Red men, her ruder children. In Florida, every thing was disposed in hostile array against the laws, customs, and religion of the settlers. In the other territories, the lands, with very few exceptions, originally belonged to the United States; in Florida, land had been granted in bodies of every size and figure, by several executive governments, acting under laws entirely different from each other and our own. By this the courts were embarrassed, the land titles confused, and the sales of public lands, and the settlement of the country, greatly retarded.

Florida, moreover, had to encounter still greater disadvantages than those to which Louisiana was subjected. At the time the territory was surrendered by the Spanish authorities, little more was known of it than the immediate vicinity of the cities of St. Augustine and Pensacola, and the rivers St. John and St. Mary. An exceedingly sterile soil, occupied by a lazy population, offered few inducements to other settlers. The occurrence of a tremendous epidemic, regarded as yellow fever, contributed largely to discredit the newly acquired country. It was, however, soon discovered, that a few tracts of very superior soil existed near the only points known; but it appeared that each of these favoured spots was claimed under several different grants. A superior court had been established on the east, and another on the west of the Suwannee, and two commissions, appointed to settle the land claims, had jointly begun to attract a large number of strangers. The old Spanish inhabitants, at least the most respectable of them, were in the meanwhile departing with their property and negroes for Havana, according to the terms of the treaty of cession. It is a fact, that with the exception of officers of government, some lawyers, shopkeepers, and landjobbers, not exceeding altogether two hundred souls, not more than *ten* settlers or planters, with their families and negroes, have arrived in East Florida, since it came into possession of the American government. The entire population consists of the Spanish population of the city, and eastern shore of St. John's river, and of a number of small planters and cowdrivers, who removed from St. Mary's, or the lower part of Georgia, to the western banks of the St. John, while under the Spanish government.

The advantages accruing to the United States by the purchase of Florida, were too great to allow of any doubt as to the policy of the measure. Its military importance alone, in the event of war, was sufficient to justify the acquisition; but the time soon arrived, when the agricultural prospects of the country were discovered. In 1818, the army under General Jackson marched through the Chipola country to Fort St. Mark's, Micosucky, and Suwannee Old Towns. The western militiamen retained a vivid recollection of the small quantity of very superior lands they had seen in the midst of the pine barrens. These lands, notwithstanding they were once known to the whites, and had in former times been cultivated, had been entirely neglected by the Spaniards, and fallen into the absolute possession of the Indians.

While the Duke of Alagon claimed almost half the peninsula; while immense tracts of land were granted in Allachua, at Tampa bay, and on Indian river; while J. Forbes and Company were loud in the praise of their purchase at the mouth of Apalachicola, the fertile and undulating country of Tallahassee, Chipola, and

Little river, was suffered to remain unobserved, and public attention was entirely engrossed by the first-mentioned comparatively barren tracts. This proved to be a great blessing to Florida. If this part of the country had been known to the Spanish government, it would have been granted, and squandered in suits, or in tricks of speculation, as the land to the eastward and westward had been, and the flourishing crops which are now blossoming there, and the crowd of respectable and enlightened emigrants, who enliven this no longer wilderness, would not be there to compensate the nation for her sacrifices.

In 1824, however, a treaty was held at camp Moultrie, near St. Augustine, with the Indians, by Governor Duval, Col. J. Gadsden, and B. Sequi, one of the old inhabitants. Col. Gadsden, who had followed General Jackson in 1818, and was acquainted with the lands north and west, directed the negotiations so as to save to the United States the rich country above mentioned. In vain the speculators and grantees, who only became acquainted with this promised land after it had been snatched from their reach, threw every obstacle in the way of the commissioners, who succeeded in obtaining the cession of the soil, and the Indians were subsequently established in the south, on tracts of comparatively little value.

This was the commencement of a new era for the territory. The legislature indicated a site for a capital in the newly acquired district; twenty townships were surveyed and partly sold; a new judicial district was established; emigrants crowded round the rising walls of the capital, and to use the bombastic expressions of the acting governor's message, "*the woods yielded their shade to the saw, and their silence to the hammer.*" This portion of country has been rescued in this manner from the hands of land and claim jobbers, and a strong body of intelligent planters and actual settlers has been created, neither interested to deceive the people of the United States, nor readily to be deceived themselves. As they increase in numbers and wealth, they will attend to the management of their public concerns, and henceforth the inhabitants of the "*land of flowers,*" will emulate the conduct of the industrious bee.

Florida may at this time be considered as three regions:—

1st. St. Augustine and the East. Here the land is generally poor, and, figuratively speaking, is covered with undetermined and conflicting claims, which prevent the settlement and cultivation of the small proportion of good lands. Excepting its delightful climate and orange groves, St. Augustine has little to recommend it. The population consists chiefly of Spanish fishermen, whose indigence prevented their migration to Cuba. It has no back country for its support, and can scarcely ever become a place of business. During the existence of the Spanish autho-

rity, its support was derived from the presence of the officers of government, &c. Its population at one period was estimated at 5000, but for a considerable lapse of time, the number has been decreasing, and the city is rapidly going to decay.

2d. Pensacola and the western sea shore. The lands here are very barren, but as Pensacola has become a naval depot, and contains a strong garrison, it improves very fast. The society is agreeable, being in a great degree composed of officers of the army and navy, and their families. In 1819, the population of Pensacola was estimated at 2000 souls. At present the number must be very greatly increased. There is a settlement at St. Joseph's bay, which may lessen the importance of Pensacola, but enough will remain to make it an eligible place of residence and business. It stands upon a dry sandy plain, about eighteen or twenty feet above the level of the sea, and is generally well built. Some of the public and private edifices are spacious and in good taste.

3d. Tallahassee and the country recently acquired from the Indians. This division comprises parts of Jackson, Walton, Washington, and Gadsden counties, near the Georgia line, besides the whole of Leon and Jefferson counties. The lands here being sold annually by the United States, are entirely unincumbered with grants. A large proportion of this district, it is true, is composed of poor pine barrens or marshes, but in the midst of these are found gentle eminences of fertile land, supporting a vigorous growth of oaks and hickories, while numerous rivulets of pure water flow through the country, or expand into beautiful lakes. The city of Tallahassee is a prosperous little place, if an opinion may be formed from the number and excellence of its stores and taverns. The vicinity is rapidly changing from native forest land, to cultivated fields. But as Tallahassee is twenty miles distant from the ocean, it can scarcely become a place of extensive business. The trade in bulky articles will be principally carried on at St. Mark's, yet as this town is built upon a low marshy point, its unhealthiness will prevent it from either acquiring or retaining a large population.

To the third section of country described, the attention of new settlers who are agriculturists must be directed. If they are engaged in trade, Pensacola, Tallahassee, and various other situations favourable for country stores, may be selected. Professional men will act wisely by deferring their migration to this new country, until more time has elapsed, and the people come to require and learn to appreciate their services more generally.

The surface of the country in Florida is generally flat, or but slightly undulating, though towards the interior it rises into a succession of slight elevations, running nearly from north to south. Towards the seashore, the country is exceedingly low, and abounds in marshes and lagoons. To judge from what may

be daily observed along the coast, we might readily conclude that a very large part, if not the whole of Florida, was originally *founded*, if we may use the expression, by molluscous animals, which inhabit the adjacent sea in countless myriads. The vast banks of shells, and reefs of coral, which are every where to be seen, continually increasing, show beyond doubt that the long-continued action of the same agents, may produce bars and islands, or even extensions of continent. Nothing more is necessary thereto, after these shells, corals, madrepores, &c. have been accumulated to a certain degree, than that their surfaces should be gradually levelled by the accumulation of weeds, and their own detrition, until by a succession of vegetations, the soil becomes sufficiently secured to resist the encroachments of the sea. In fact, every step of this process of formation, may be witnessed on the Florida coast. Enormous reefs, not of rocks, but of coral, (upon which the little animals are hourly building, from the lowest depths of the ocean, until they approach within a short distance of the surface,) extend for miles in different directions, and fill the experienced mariner with apprehension. Of such materials, are the foundations of all the "Keys" and islands of this coast, and the progress of the decomposition of the shells, corals, madrepores, &c. may be seen from the first fragments produced by the violence of the waves, to the complete disintegration, and subsequent agglutination of the particles forming the solid rocks. But for the force of the currents which sweep along the shores, and the tremendous commotions to which these waters are liable, the increase of the land, from such causes, would be more strikingly obvious. The friends of the theory, which teaches that a vast body of land has heretofore been swallowed up by the ocean, between the old and new continents, must beware of taking the islands on the Florida coast, as fragments of the sunken country, since these have unequivocally *risen*, or rather *grown* from the bottom of the briny deep. To the geologist, Florida will hereafter offer a very instructive field of research, as it is highly probable that many parts of its soil entomb the organic remains of extinct animals, which, as the country becomes thoroughly peopled and explored, will be discovered. But the mineralogist has little to expect from a country so thoroughly alluvial and new.

The climate of Florida is generally mild and pleasant, without violent vicissitudes of weather, from the month of October, until June. In the months of July, August, and September, the heat is very great, and the air is peculiarly sultry. This may be considered as the unhealthy season, when the endemic fevers are prevalent; but even at this season, the climate of St. Augustine is considered to be salubrious and pleasant; and is resorted to by invalids, and such as are desirous of avoiding sickness.

The magnificent luxuriance of vegetation, which is exhibited in Florida, is altogether surprising to those who have been accustomed to the simpler verdure of more northern countries. There is an appearance of vigour and strength in the growth of the most ordinary weeds, which cannot be overlooked, and leads the observer to remark that both the climate and soil are especially suited to vegetable productions. Many of these are highly interesting and curious in themselves, but we cannot, without extending this paper to an extraordinary length, enter into a detailed description of them. The woods and the waters equally teem with animal life; vast numbers of insects and reptiles are occupants of the marshes, lagoons, &c., and when the season for the decay of the vegetable matter arrives, the extent and rapidity of the decomposition extricate an immense amount of vegetable animal miasmata, of the most deleterious character. The increase of population, as it is accompanied by an improvement of the face of the country, will gradually lessen, or altogether remove these sources of evil. There is one error, at present occasionally committed, in attempting to remove such causes of disease; and this is especially to be avoided by settlers. They are frequently annoyed by ponds of fresh water, at no great distance from the sea, which are the prolific nurseries of insects, and vegetable matter, whose putrefaction during the hot season, is so much to be dreaded. To prevent these consequences, canals are occasionally dug to admit the sea water to these ponds; the salt water immediately causes the destruction of all the fresh water animal and vegetable matters, while the mixture of the fresh water with that of the ocean, acts as efficiently upon the marine substances. The result is a greater mischief than could have occurred without the interference just mentioned.

The quadrupeds at present known to inhabit Florida, are generally small, though sufficiently numerous. The common deer, (*Cervus Virginianus*,) is, perhaps, the largest wild quadruped. At an early period, the bison, (*Bos Americanus*,) ranged over this territory, but this noble animal has long since been exiled to the remote trans-Mississippian regions. The black, or American bear, (*Ursus Americanus*,) may occasionally be found in the northern part of the territory, but the animals which are most numerous are principally the smaller carnivorous and gnawing animals, the wolf, (*Canis Lupus*,) the fox, (*C. Vulpes*,) wild cat, (*Felis Rufa*,) raccoon, (*Procyon Lotor*,) the otter, (*Lutra Brasiliensis*,) and various species of mustelæ, or weasels, species of squirrel, rats and mice, are very numerous; the beaver is at present unknown in Florida, and what may be considered exceedingly fortunate in a country where so much dyking and banking are necessary, the muskrat, (*Fiber Zibethicus*,) is not found within a hundred miles of the seacoast.

The reptiles found in Florida are rather numerous, and a few of them quite notorious for their size and destructiveness; among these, the largest and most celebrated is the alligator, which is found in considerable numbers, inhabiting the lagoons and reedy margins of the rivers, growing to such a size as to become quite formidable. They have been killed of fifteen or eighteen feet in length. In general, they are productive of little injury, as they are easily discovered and avoided by travellers, or residents of the country. Many wonderful stories are related of their carrying off blacks, &c., but these stories are as often fictions, as they are built upon the slightest degree of fact. The history of their peculiar manners and habits would be highly interesting, but cannot be introduced here, for the reason already given. Several species of rattlesnake are also found in Florida, possessing all the virulence of poison so peculiarly distinctive of their race.

We may now make some observations on the works whose titles stand at the head of this article.

The first is a small book, or rather pamphlet, written shortly after Florida came into the possession of the British government. It contains a short and unpretending statement of the character and productions of the soil, as far as the country was then explored. This sketch is rendered more interesting by the journal kept by the botanist, John Bartram, on his voyage up St. John's river, whose book appears to be out of print at present, although it is well worthy of preservation, among a collection devoted to the illustration of the natural history of Florida.

The Travels of William Bartram are more recent and better known, and contain a great number of most interesting facts and observations. It is much to be regretted, however, that with his opportunities, this amiable author had not written with a greater degree of systematic precision, and with fewer pages of mere exclamatory admiration at the beauties and wonders of Nature. His rambling mode of writing, is rendered fatiguing and unsatisfactory by a minute record of his *reflections*, rather than his observations. We hardly observe the real value of the numerous facts he has collected, until we become sufficiently acquainted with the book to skip the passages that may be fairly styled notes of admiration. However, his work has a great deal of interesting matter in it, and will always be referred to as conveying a good general idea of the countries through which he passed. A very entertaining and useful treatise, containing about half the number of pages, might be *digested* from his volume.

The next work on the list, is that of Mr. Grant Forbes, a partner of the house of John Forbes & Co., which claims a large tract of land at the mouth of Apalachicola. This book was evidently written for the purpose of alluring settlers and selling off lands; and, as might be expected, the descriptions are every

where flattering to an excessive degree. Some information relative to the ancient history of the country is however given, but the author has uniformly fallen into errors in the geographical part of his work. Except Picolata, an old deserted town, eighteen miles from St. Augustine, there are no traces to be found of the settlements of which he speaks; he also is entirely mistaken as to the rivers. But the most laughable misrepresentations, are contained in his chapter describing the productions of the country. Among the different staples, whose modes of culture are minutely described, may be found mahogany, cinnamon, alspice, cocoa, coffee, roucou, cassava, and vanilla; which are not only unknown in Florida, but the greater number of them could not be raised there. The only two date trees in the territory, are both unproductive, being of the same sex. Two olive trees, of very large size, and supposed to be of very great age, did grow near St. Augustine, and a few more were raised at New-Smyrna, but from some cause, none of them were fruitful. On Cumberland Island, in Georgia, about sixty miles north of St. Augustine, is a plantation of olives, which succeeds very well. The olives have been generally pickled, at this place; at least, we have not heard that any attempt has been made to extract oil. There is every reason to believe, that the olive might be advantageously introduced into Florida. Of the West India papaw, there is but one tree, at Tomoka. We may conclude our observations on this book, by remarking that it is well written, but so replete with mistakes and misrepresentations, as to be a very unsafe guide.

The work which follows the foregoing, in our list, is distinguished chiefly by the excessive credulity of its anonymous author. To exemplify this statement at length, it would be requisite to quote the greater part of the book; for some of the most extraordinary instances, the reader may refer to pages 30, 35, 40, 59, &c. It is, however, evidently written with an honest intention to diffuse a knowledge of the country, of which the author appears to have been a zealous, although an indiscriminating admirer. His description of St. Augustine, and vindication of its climate, are true, and worthy of perusal. The natural orange groves of Allachua, are very correctly portrayed; some groves of the same kind are to be found to the south of St. Augustine, on the hummocks of land, the streams, and lagoons. They are generally considered as indications of a very superior soil.

This author's notice of the Indians is mere romance; than whom a more miserable and pitiable race can scarcely be imagined.—The picture he has presented of the savages, and his ideas of savage life, are about as accurate as the ideas a youth would form of pastoral life, from the glowing descriptions of Virgil. Chateaubriand has viewed the Indians much in the same way, "his eye in a fine frenzy rolling;" but we expect poetry and

fiction from him. A vocabulary of the Indian language concludes the volume.

Mr. Charles Vignolles was a surveyor, and enjoyed excellent opportunities of examining the Florida lands. He has published a map, representing very exactly the outline of the coast, but in filling up the interior, he appears to have relied exclusively upon his imagination, or upon mere report, especially in relation to the country west of St. John's river. He has exceedingly magnified the quality, and even the quantity of good land; for instance, there is on Indian river nothing more than a hummock running along the western shore, which is no where more than fifty yards wide, yet he represents it as a large tract. He strongly recommends the separation of West Florida from the peninsula, and its re-union with Alabama; this, if it were accomplished, would effectually prevent Florida from ever taking the rank of a state. Most of the reasons which he has urged for the separation no longer exist. A road which may be travelled by every variety of conveyance, is now open from St. Augustine to Pensacola, through Tallahassee, having good ferries over every water course which is not bridged. The mail goes twice a fortnight from the seat of government to Pensacola, and once to St. Augustine. A road of the same kind with that above mentioned, exists from Coleraine in Georgia, to St. Augustine and Tomoka, and another to Tampa bay. Travellers may obtain frequent accommodations on these roads, though it is still occasionally necessary to "camp out,"—a state of things which will speedily be improved.

This author has entered at considerable length into the modern history of Florida, and among various uninteresting details, has preserved some records which are worthy of more attention. At the head of these, stands an account of the insurrection of 1812, commonly called the revolution of M'Intosh. His description of the wreckers of the Keys, is very interesting, though somewhat embellished. The legislative council, in their wisdom, discovering that it was unjust for British subjects alone to enjoy the benefits of this noble industry on our seacoasts, passed a *patriotic* law, giving jurisdiction to the magistrates' courts all over the territory, to allow salvages to wreckers, according to the necessity of the case, keeping however a small percentage for the territory, clerks of court, &c. Shortly after, a justice of the peace removed to Key West, and awarded salvages, at his court, to the amount of from sixty to seventy per cent.; and on one occasion, ninety per cent. was decided to be strict justice! he was moreover auctioneer, and is said to have made purchases, as agent of a house in Charleston. The territorial law was declared to be unconstitutional by the District Court of South Carolina; but in another case, a decision of the Superior Court of East Flo-

rida, declared the constitutionality of the law, by reducing the rate of salvages. Key West had actually become a nest of pirates, when the territorial law was finally repealed by Congress. It had, however, escaped for two years; and during that time, an enormous amount of property must have been thus swindled, since the territory gained for its own share 9,000 dollars, and it is believed that by that law it was *fairly* entitled to three times the sum.

The style in which Vignolles' book is written, is not deserving of much praise; but it contains far more of actual information, than the two works immediately preceding. It must however be remembered, that this author is a surveyor, and that he most probably considers the interests of his employers, the claimants of land, as paramount to the interests of the territory. He concludes, as does Mr. Forbes's book, with a collection of documents of some importance.

Colonel Gadsden's oration presents the best view of the soil, and the most reasonable speculations relative to the future prospects of Florida, that we have yet seen. It is free from the ridiculous exaggerations which disfigure so many of the accounts of this country; nor does it indulge in any of the disparaging references to particular parts of the territory, so common in the writings of disappointed land speculators. It bears the appearance of having been rather hastily prepared, and its style is somewhat more pompous and poetic than we should have wished; but the statements it contains are correct and valuable throughout.

Mr. Williams's book, the last we shall examine at this time, is on the whole very accurate and impartial. More than a third of the volume, under the title of Appendix, is filled with letters, speeches and debates in Congress, which have been frequently republished, though, as many of them are valuable, it may be well to have them preserved in a separate form. They certainly do not constitute the most interesting part of the volume. We shall refer to most of these, individually, as we are desirous to give a full account of the territory.

The map he has furnished, is one of the best that has appeared; but it may be objected to it, that it wants the township lines of the land office surveys, which are of very great convenience to settlers, or to persons seeking information concerning lands. We are glad to observe, that these lines are given in the Map of Florida, published by Mr. Tanner, in Philadelphia, whose work is on the whole to be preferred to any other. Another objection to Mr. Williams's map, and indeed the whole book, is the misspelling of Indian names. In a new country, whenever a name is adopted for a place, every one spells it according to his own ideas, until general custom has quietly determined which mode

is to be followed. It would be useless to refer to particular instances of such mistakes in this work.

In speaking of St. Joseph's bay, Mr. Williams says:—

"St. Joseph's bay presents an entrance from the north-west six miles wide, but most of this distance is occupied by a middle ground. One channel is close under the north point of the peninsula, where there is seventeen feet of water. The main channel commences near the cape, about two miles from the main land, and has twenty-eight feet of water. The north end is blown up into sharp sand hills, except that on the inside of the point, there is a forest of high pines, which may be seen at a great distance." (p. 15.)

A difference of opinion prevails, as to the depth of water in this bay; some pretend, that forty feet can be carried over the bar, but from the most recent accounts, the statement of our author appears to be most correct. The bay is of great importance, since by cutting a canal of only ten miles in length to the lake Wimico, a communication may be opened with the river Apalachicola. The "forest of high pines," is the only spot where a city can be founded, near the mouth of that river, which enters the sea amidst an immense delta of marshes. Flat-boats, or steam-boats, might bring produce down to St. Joseph's bay, whence they could be exported by vessels of any size. Fort Gadsden, or Colinton, is so unhealthy, that no settlement will ever be made there; the sand hills of the bay appear to promise a better situation. There is already one steam-boat plying upon the Apalachicola.

In his catalogue of animals and plants, the author is generally correct; but it is scarcely possible to avoid smiling, when we peruse the pompous account he gives of the pistachio or pistache nut, at page 59. This rare exotic, which is thus highly extolled, is nothing more than the common *pea-nut*, or *ground-nut*, of the southern states!

The agricultural observations contained in this work are good, especially in relation to cotton. Sugar, however, will become the staple of this country; in proof of which may be mentioned the crop of 200 barrels raised in the east by Colonel Dummet, who sold this sugar at eleven cents per pound in Boston. The luxuriant growth of the cane in the west, renders it equally certain that it may be most advantageously cultivated in Florida. Hitherto, sugar has not been extensively manufactured, because the engine and boilers cost upwards of from three to four thousand dollars. There is besides great difficulty in procuring the seed, several wagon loads of cane being necessary to produce seed enough for an acre of ground. At present, it is perhaps more advantageous, near Tallahassee, to raise cane for the sake of the seed, than for the purpose of making sugar. A sugar estate cannot be established under two or three years.

"Sugar is becoming an object of attention. Several farmers have for the last three years (1824-5-6) been increasing their fields of cane. In many parts of Jackson, Gadsden, and Leon counties, the cane grows to great perfection; the climate and soil are very appropriate, and there is no doubt but that sugar will in a few years become an article of first importance to our planters. An acre of sugar cane has in one year produced 3000 lbs. of sugar. In Louisiana, 1000 lbs. per acre is considered a good crop. A farmer near Tallahassee has this year made three barrels of sugar from an acre of cane, besides a barrel half full of thick syrup, with his usual family utensils; and he reserved cuttings for planting to the value of 160 dollars from that same acre." (p. 65.)

The few observations which our author has made in relation to the Indians, are not more exact than those contained in the preceding works. We shall therefore endeavour to supply this deficiency.

The Florida Indians are called Seminoles, which name signifies *runaway*; and they are actually nothing more than outlaws and refugees from the four southern tribes, of which they speak the languages, having, as we believe, none of their own. The Eastern Indians were totally separate in their government from those of the West; and they united for the first time, as a nation, at the treaty of Camp Moultrie, when it was declared to them that they must select a reserve, and live upon it. After considerable negotiation, (which was at length terminated by the energy of one of the commissioners, who cut off the intriguing white advisers from the Indians,) they gave some reserves in the West to chiefs who chose to abandon the nation, rather than their improvements; and they selected the situation they now occupy. The United States engaged to furnish the movers with rations, to enable them to wait for their crops. The number of Indians at that time was about 5000, of which number 500 were warriors. Rations however were issued for a smaller number, as only those who moved were entitled thereto. The great object in removing the Indians south and east, besides the acquisition of land, was to interpose a strong body of white population between the Creeks and the Seminoles, so that they could not unite their forces in the event of another war, and that the Creeks should be entirely separated from the sea. We have remarked elsewhere, that the country allotted to them was of comparatively small value to the United States; but it is still good enough for their purposes. Their friends, indeed, have represented them to be in a starving condition, which may have been the case, owing to circumstances which we shall explain.

Planters cannot settle a country, if they have not bodies of three or four hundred acres of good land in a mass, and their different tracts at such a distance as to admit of a neighbourhood. But this is not the case with the Indians: their largest families will never plant more than ten or twelve acres of corn; and a great number of small hummocks of that size are to be found in

Florida, any where along the water courses, in the worst parts of the country. The object of their friends, in complaining of their location, was to leave them in possession of good lands, the offering of which in the market, at present, prevents them from selling bad titles and barren grants. They have succeeded in obtaining for the Indians the Big Swamp, in addition to their former limits. This is nearly a township of very fine land, capable of supporting a white population equal to that of the Seminoles.

Still, if the same mode of issuing rations be continued, the Indians will be next year again in a state of starvation. A military post was established at Tampa bay, where some of the Indians received rations. The Indians of the West broke up their settlements, but never left the country : hearing, however, that rations were issued at Tampa bay, some went, received them, and came back to the vicinity of Tallahassee. Secretary Walton, in order to compel them to go, adopted the wise expedient of giving them six weeks' rations *there*, to carry them home. These rations were consumed in the woods of Leon county, and the Indians returned to throw themselves upon the mercy of government—said they were starving—wanted to go into their limits, &c. Yet the rations were again distributed.

The murder of M'Intosh, in Georgia, drove a great many Creeks into Florida, who, profiting by the movement, drew their rations as Seminoles.

The treaty was never executed on the part of the Indians, because none of those who were to emigrate into the reserve, ever left their former place of abode. Still the United States had added the Big Swamp to their reserve, and issued to them nearly twice the stipulated number of rations. It may be asked, were they to be suffered to starve? Certainly not : but is it not clear, that so long as these Indians are fed, they will neither plant nor hunt? Is it not evident, that having once successfully practised deceit, they will repeat the same stratagem? Or, in short, is it not evident that the rations should have been delivered in the reserve itself, and not at the places to be relinquished?

Owing to these mistakes, and perhaps some most daring and unprincipled speculations practised upon their rations, the Indians remained, until December 1826, scattered over the whole country. They committed numerous depredations: killing cattle and hogs, and even stealing the horses of the farmers, and setting fire to their improvements. The garrison of Tampa bay, *judiciously* placed at the south, while the settlements were at the north of the reserve, could afford no protection. At last they murdered three men and a family of small children, and burned houses not twenty miles from the seat of government. This created a great excitement in the country, and they were driven by

the people themselves into their reserve, in less than two weeks' time;—what the agents of the government had been unable to effect in two years. The treaty was for the first time enforced; no farther rations were supplied; and none of them starved.

It may seem scarcely credible, that this was the time their chiefs chose to ask new favours from the government, even enlargements of their territory—and they succeeded. While the chiefs were in Washington, propositions were made to them to migrate beyond the Mississippi, which they most peremptorily refused. An equally peremptory refusal was made to a recent proposition from Colonel White. They even objected to the establishment of a school amongst them. Should the Indians remain within their own limits, their presence will be productive of no injury to the territory; but they cannot be kept within their proper bounds, unless a military post be established in Alachua, at the agency. Every year will increase the difficulty of removing them westward, as they will have improved their lands, and made permanent settlements. The system of treating the different tribes as independent nations, has caused much injury. All the difficulties in Georgia would probably have been prevented, if an *individual*, and not a *national* removal had been proposed to the Creeks. The mass of Indian hunters did not care where they chased their game; but they were true to the chiefs of their tribe. Among these, some had made improvements which they were unwilling to leave; but others, more enlightened and ambitious, understood, that as long as they remained within the United States, their authority would be limited; and therefore they wished to establish in the west an independent Indian empire. If, instead of treating with a nation, the United States had extended the jurisdiction of Georgia, granting a pre-emption right of a section in fee simple to any Indian who had made permanent improvements, and wished to remain, giving to the others rations and a few presents, every one would have been satisfied; and, most probably, no difficulties would have arisen. It certainly appears preposterous to ask the *consent* of the Indians, after it is determined to *force* them into measures, how much soever they may object. As to the justice and honesty of the policy, that is a very different question. Under ordinary circumstances, it would be considered ridiculous to inquire whether a company or an individual might not be *forced* to dispose of goods, provided a stronger party chose to purchase, or desired to possess them. But history and experience teach us, that in relation to the Indians, "*nous avons changé tout cela!*"

The following animated description of the old inhabitants of Florida, is exact, and as applicable to St. Augustine as to Pensacola. Tallahassee being settled almost entirely by an American

population, necessarily has not the gaiety of her elder sisters; but we believe her rational society will be found quite as congenial:—

"The manners and customs of the Floridans are as various as their different origins. The country having, at different periods, been conquered by the English, French, and Spaniards, the inhabitants of these countries were much intermixed in complexion, language, and manners. The Creoles had, before the transfer to the United States, assumed something of a national character. Florida was little more than a military position. Most of the respectable inhabitants held commissions in the army, or in some of the departments of government; they lived on their salaries, paid no taxes, and were rarely called to a strict account for their conduct. The balance of the people kept little shops, cultivated small gardens, or followed fishing and hunting. They were almost wholly confined to their towns; a few cow-pens in the country formed the only exceptions. They were a temperate, quiet, and rather an indolent people. Affectionate and friendly to each other, and kind to their slaves; the even tenour of their way was not often interrupted by business of any kind. Dances, card parties, &c., were frequently indulged in, but never to excess. The bustle and exertions of a mixed American population, for a time threw the old inhabitants into the back ground; but meeting with little success, the new comers, at present, seem rather disposed to settle down to the easy lives of their neighbours, than to pursue a course of exertion which has once proved unsuccessful. It was a misfortune that most of the American emigrants to this country, brought with them expectations of accumulating rapid fortunes: being disappointed in their hopes, many left the country in disgust, and many relaxed in their exertions; but the few who settled down in a course of patient industry, are realizing a decent independence. Could the old and new inhabitants be induced to unite in establishing a rational system of education, all distinctions would in a few years be lost, and Florida would enjoy a happy population."

The following description of Tallahassee is quite correct, and may prove interesting to our readers:—

"Tallahassee, the seat of government for the territory, is situated in Leon county, about twenty-two miles north by west from Fort St. Mark's, and about midway between the eastern and western extremity of the territory, on a high commanding eminence, in the bosom of a fertile and picturesque country. A pleasant mill-stream, the collected waters of several fine springs, winds along the eastern border of the city, until it falls fifteen or sixteen feet, into a gulf scooped by its own current, and finally sinks into the cleft of a rock, at the base of an opposite hill. Numerous springs flow from the southern border of the town. In every part of the plain, good water may be obtained by sinking wells from six to thirty feet. In the spring of 1824, the first house was erected in Tallahassee. The first legislature sat there in the winter of the same year. In the winter of 1825 it was incorporated, and the government of the city was vested in an intendant and five aldermen. It now contains eight hundred inhabitants, and one hundred and twenty houses. The corner-stone of the state-house was laid in January 1826, and one wing of the building erected during that season. Several religious associations have been established, a masonic lodge, and an agricultural society. The market is yet small, but well supplied with meats. Beef, mutton, and pork, are plenty and cheap. Venison, tame and wild fowls, and fish, are also reasonably low. Bread stuffs have as yet been dear, owing to the rapid increase of population, which has outrun the expectation of eight or ten merchants established there. Few towns in America have increased more rapidly than Tallahassee, and population and improvement continue [to increase] without any abatement. It must, in a few years, become a charming place of residence, though it will probably never become a place of much commercial importance." (p. 79.)

The letter of Judge Brackenridge, forming the first document of the Appendix, is well written, and evinces considerable re-

search. It is, perhaps, somewhat too visionary, even in its descriptions of present remains: the same remark will apply to the avenue of live oaks. It is unquestionable, however, that some very remarkable pieces of furniture, evidently appertaining to a civilized population, have been found there; probably the remains of the French Protestants so cruelly treated by the Spaniards, as heretofore related. We shall leave to Mr. Williams the task of describing them:—

“About half a mile from Tallahassee, and near the dwelling of Gov. Duval, are the ruins of several small fortifications, which appear to have been hastily thrown up; near one of these, a large wooden building appears to have been destroyed by fire; some large timbers of the house, completely charred, have been preserved: very large spikes, locks, keys, and hinges, have been discovered; among other things, a porcelain lion, in a good state of preservation: it appears to have been an ornament for a chimney-piece. At some distance under the surface, a floor was discovered, formed of a composition of lime and other materials, very hard and smooth: on a part of the floor was piled a great quantity of corn and filberts, perfect in form, but very tender.” (p. 34.)

A reference to the early history of Florida, renders it unnecessary for us to enter into many speculations relative to the origin of these remains. They are fast disappearing, from the action of the hoe and plough, and the *antiquarians* of the Florida Institute must be on the alert, to preserve any record of these evanescent traces of former civilized inhabitants.

The second document is highly interesting; and it is much to be regretted, that our author has not extended to East Florida the account he gives of the large grants. Speaking of Forbes's purchase, he says:—

“John Forbes & Co. claimed a large tract of land east of the Apalachicola river, under treaty of cession of the Seminoles and Tallapoosa Indians, which grant was confirmed by Gov. Folch. The same company claim a large tract adjoining the former, as surviving partners of Ponton, Leslie and company. These two claims embrace nearly all the county of Gadsden, and part of Leon, estimated at one million two hundred thousand acres. The commissioners gave it as their opinion, that neither the Indians nor Gov. Folch had any power or authority to make any such grants. A third tract, to the west of Apalachicola river, nearly equal in size to the two former, was claimed by the same company. The consideration for these several grants, was certain spoliations and robberies committed by the Indians on the trading establishments of these companies. The principal objection to the last claim, is the want of a reference to the King.” (p. 112.)

The board of commissioners, in East Florida, after a session of three years and a half, have transacted very little business; and what they have gone through, is said to have been imperfectly done. They have cost the United States about 70,000 dollars, being far more than the lands are worth to the nation. The new board, it is hoped, will in a short time retrieve the mismanagement of their predecessors. It is much to be desired, that Congress should adopt some general measures relative to land claims throughout the Union. In addition to the immense number of gross frauds, which these claims have caused, they have

been very injurious in another way. The grantees are not interested in the settlement, but in the sale of their lands. This creates an interest directly opposed to the best interests of the territory. Any land brought in competition with such grants, must be cried down, especially if of superior quality. To the existence of this interest, are to be ascribed the slow increase of population, and the excitement of political parties. No misrepresentations have been spared, no springs left untried, to injure the middle district of the territory; for no other reason, than that there the lands were good, and the titles, which were indisputable, could be obtained at a cheap rate. In place of ignorant fishermen, who could be easily gulled into any measure, however injurious, the speculators had to deal with a shrewd, industrious, and enlightened population, accustomed to self-government!

We cannot forbear from adverting in this place, to the practice adopted by Congress, of granting townships of land to literary or scientific institutions. Why not grant them money, or at least the produce of certain townships of land, to be sold by the ordinary officer of government, in the usual way? Why, for the benefit of the deaf and dumb of Kentucky, should the settlement of Florida be materially retarded? We feel persuaded, that government would act differently, if it were at all informed of the innumerable tricks and jobbings which are the result of its practice.

The remainder of the volume contains several letters and speeches in Congress by Colonel White, concerning the canal to unite the Atlantic with the Gulf of Mexico. It was our intention to speak at length on this highly interesting subject, and to show how visionary are the schemes contained in these letters. This is now rendered unnecessary, as General Bernard is engaged in making an exploration of the country; his reports on this subject will doubtless be definitive. We risk very little, however, in declaring our belief, that the project of a ship canal will prove altogether visionary. The most that is to be hoped for, is a boat canal between the Santa Fe and the forks of Black creek, a distance of thirty-two miles. The greatest difficulty will be to find water at the summit-level, which is 298 feet above the sea.

Florida produces long and short staple cotton, in great perfection; the facility with which sugar-cane is raised, even on lands of a very inferior quality, almost on pine barrens, promises hereafter to become a great source of wealth to the territory. Indigo could be planted any where, but for the reduction of prices. The vicinity of the West Indies will offer an easy market for pine lumber of a superior quality. Florida, having now surmounted the first difficulties, has a fair prospect of rapid increase. If we were

asked why this has not hitherto taken place, we might reply in the words of Mr. Williams:—"Although Florida is rapidly increasing in population, there are several causes which must tend to retard her progress in some parts, for several years. These are principally the unsettled land claims, and the large grants, possessed by individuals, which are withheld from sale for the purpose of speculation."

ART. XI.—NEGRO SLAVERY.

- 1.—*A Practical View of the Present State of Slavery in the West Indies; or, an Examination of Mr. Stephen's "Slavery of the British West India Colonies;" containing more particularly an Account of the actual Condition of the Negroes in Jamaica: with Observations on the Decrease of the Slaves since the Abolition of the Slave Trade, and on the probable effects of Legislative Emancipation: also, Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell. By ALEXANDER BARCLAY, lately, and for twenty-one years, resident in Jamaica. London: 1826.*
- 2.—*Speech of the Hon. HENRY CLAY, before the American Colonization Society, in the Hall of the House of Representatives, January 20th, 1827. With an Appendix, containing the Documents therein referred to. Washington: 1827.*

ABOUT three years ago, Mr. Stephen, the author of that clever piece of sophistry, "War in Disguise," published a work on the slavery of the British West Indies, in which, for the purpose of inducing Parliament to bring about emancipation, he endeavours to show that slavery exists there in a worse form than in any other country, ancient or modern; and in the notice of the work by the Edinburgh Review, (August 1825,) it is said, that "no opponent had appeared sufficiently intrepid to deny the author's statements, or to dispute their results." But ere the year expired, the answer at the head of this article made its appearance, in which many of those statements, as well as the inferences deduced from them, are not only denied, but virtually disproved by Mr. Barclay; and a vast deal of good sense and sound argument, expressed in a business-like, unpretending way, is brought forward by him, to vindicate the character and legislation of the colonists from the intemperate denunciations of Mr. Stephen.

In our remarks on this subject, which is as vitally interesting to a large part of this Union, as it is to the West Indies, we are aware that it is one of peculiar delicacy—that it agitates different parts of our confederacy with the most opposite feelings—and that, in proportion as we are able to keep that middle course, in which truth and wisdom are commonly found, if at all, we shall be likely to offend the violent of both sides, since nothing short of bigotry is acceptable to bigots.

There are, indeed, two descriptions of persons with whom all temperate reasoning on this subject is thrown away. One comprehends those who declaim against slavery, as utterly inconsistent with religion or morals; and who extend their hatred of slavery in the abstract, to the owners of slaves. This class of persons would be piously angry with one for being a Mahometan in Constantinople—a Catholic in Spain—a Presbyterian in Scotland—and they philosophically regard war as legalized murder and robbery—government as another name for despotism—and laws as only a more regular system of oppression and fraud.

The other class comprehends those who are averse to any discussion of the subject whatever. With these, an inquiry into the mischiefs of domestic slavery, excites an impatience that is equalled only by that with which they hear proposals for a remedy. Believing the evil incurable, they reluctantly admit it to be an evil. They exhibit, in short, the same sort of sensibility, as those who are infected with a loathsome disease, whenever it happens to be mentioned. We take this occasion to state, that we belong to neither of these classes;—not to that of the Saints, as they affect to be considered, nor of Mr. Stephen, nor of the English reviewers, on the one hand; nor yet to those fiery spirits of the south, on the other, who treat their opponents in the same lordly style as they would reprove their slaves, and who manifest too little temper or moderation, to afford the promise of much wisdom, in a subject so replete with difficulty. But we belong to a class which is illustrated by the names of Washington, Jefferson, Madison, Monroe, Marshall, Crawford, Pinkney, Lowndes,—men not more distinguished for their patriotism, than their prudence—who are or were slave owners, and the enemies of slavery; but who, in their desire to better the condition of the bondsman, have not forgotten the welfare and safety of his master.

Widely as the two parties differ in opinion and feeling on this great subject, there is one error which is common to both. They agree in thinking, that slavery, with us, affects the interests only of those states in which it has the sanction of the law. The slaveholders of the southern states, tax their northern brethren, who show solicitude on the subject, with meddling in what does not

concern them; and the enthusiasts, in like manner, never seem to recollect, that the evils of a precipitate, or ill-advised emancipation, would extend more or less to themselves. But a little reflection would teach both parties, that the present consequences of slavery—its remote effects—the mischiefs and the benefits attendant on any remedy, immediately concern every member of the confederacy. They all therefore have the same interest, though not to the same extent; and all who are sensible of this interest, have the right, and indeed, owe it as a duty, to discuss every question of policy concerning it. Claiming this right, and feeling this duty, we shall speak freely and plainly, both of the mischiefs of slavery, and of the policy of its remedies; and although we do not delude ourselves with the belief, that we are entirely free from all bias on the subject, we can give this manifestation of impartiality, that we feel wedded to neither party, and think we see faults in both.

Mr. Barclay shows, by details founded on personal observation, that the condition of the slaves in the British West Indies has been greatly meliorated since the abolition of the slave trade in 1807—that the laws afford them more protection, and the owners treat them with more kindness. The most important changes are exhibited in the following summary:—

“At no very distant period, when savage Africans were pouring into Jamaica, and while there were yet but few natives or Creoles, the master’s power of punishing his slaves was little restrained by law; and was exercised to a great extent, by the subordinate white people, and the drivers.”

“Ten years ago, chains were in common use on the plantations, for punishing criminal slaves.”

“Twenty years ago, there was scarcely a negro baptized in Jamaica.”

“Twenty years ago, the churches were scarcely at all attended by the slaves.”

“Twenty years ago, negroes were buried at midnight, and the funeral rites, in the forms of African superstition, were the occasion of continual excesses among those who attended.”

“Ten years ago, the marriage rite was altogether unknown among the slaves.”

“While the importation of Africans was continued, the practice of Obeah was common and destructive.”

“It is now limited to thirty-nine stripes, to be inflicted by order, and in presence of the master or overseer, and ten by subordinate agents: and, comparatively speaking, is but seldom required at all. There is not now one punishment for twenty that were inflicted fifteen or twenty years ago.”

“The use of them is now entirely abolished.”

“Now they are nearly all baptized.”

“Since then, the number of churches, or places of worship, of one kind or other, has been more than doubled, in fact nearly trebled, and yet, in the districts where I have had an opportunity of seeing them, they are all fully attended, and principally by slaves.”

“Negroes are now buried during the day, and in the same manner as the white people.”

“The number now married is not inconsiderable, and is fast increasing.”

“It is now seldom heard of.”

"The working of sugar mills encroached on Sunday, during crop."

"Formerly the negroes cultivated their grounds on Sunday—white persons were even sent to superintend them."

"When the abolition of the African trade took place, a large proportion of the slaves were newly imported Africans, maintained with provisions raised or bought by the master; or lodged with other slaves, who had grounds which they assisted in cultivating."

"Manumissions were, at one time, burthened with heavy taxes."

"For cruel or improper punishments, slaves had formerly no adequate redress."

"Formerly, the trial of slaves was, I believe, by parol; and the power of death was intrusted to the slave courts, who could order the criminal to immediate execution."

"For ten slaves that were executed twenty years ago,

"Twenty years ago, the coasting vessels of Jamaica were almost exclusively manned with slaves."

"The operative mechanics about towns—carpenters, ship-builders, &c., were mostly slaves."

"A few years ago, marriage was unknown among the free people of colour."

"The number of free persons in Jamaica, in 1787, was estimated at only 10,000."

This comparison exhibits an improvement in the condition of the slaves in the West Indies, that is very gratifying to the abolitionists—to the friends of emancipation—to every man, indeed, that is not indifferent to the welfare of his species; and although the melioration may be regarded partly as a propitiation to the friends of the blacks in Great Britain, yet much must be also attributed to the spirit of the age, since a correspondent change has taken place in the treatment of slaves in this Union, where every

"It is now prohibited by law, and Sunday is strictly a day of rest."

"Now they have by law twenty-six working days in the year for this purpose: every manager must swear that he has given them this number of days; and no slaves now work at their grounds on Sunday, but such as are more inclined to make money than to attend church. A law to forbid their working at all would be of doubtful policy, until they learn to employ the day better than in idling and drinking."

"Now the plantation slaves in Jamaica have all houses of their own, and grounds of their own, and are, in every respect, more comfortable and independent. They form more steady connexions, pay more attention to their families in the way of keeping them clean, and dressing them neatly; and, in short, have acquired more taste and desire for domestic enjoyments."

"They are now perfectly free."

"Now they are manumised, and provided with an annuity for life; and magistrates are appointed a council of protection, to attend to their complaints."

"Now the whole evidence and conviction must be transmitted to the governor: and, unless in cases of rebellion, the sentence cannot be carried into execution without his warrant."

"There is not now more than one, and I think not even that proportion."

"From the increase of the free population, the coasting vessels are now more commonly manned with free men."

"This description of work is now performed principally by free people of colour."

"It is now becoming common, and many of them are careful to preserve the sanctity of the institution."

"It is now 35,000, and rapidly increasing, by manumissions as well as births."

state is free to make its own laws, and consequently the improved condition of the slaves could have proceeded only from a change in the public sentiment. Every one capable of making a comparison, knows, that the slaves in all parts of our country, are better fed and clothed than they formerly were—are allowed more indulgences—and are punished with less severity and frequency. They have become, in fact, a superior class of beings, and they can be now operated on by other motives than fear.

There is one striking difference, however, in the circumstances attending the melioration of slavery in the United States, and in the West Indies. Here, it has been altogether the voluntary change of individuals—there, much has been effected by legislative enactment. Although the statute books of the several states, show us provisions for the defence of the slave, and some, indeed, of a contrary character, his enjoyments have been steadily augmenting, and his privations diminishing. A knowledge of this fact, makes us deduct somewhat from the credit which Mr. Barclay claims for these legislative provisions, since they evince not only the liberal feelings of the legislature, but also the frequency of the offence. And the forbearance of our legislatures to impose restrictions on branding slaves, or putting collars on their necks, may have the same justification as was given for not assigning a punishment for parricide.

The success which has thus far attended the exertions of the abolitionists, has encouraged them to extend their views still further. Indeed, this object was always distinctly and honestly avowed by Mr. Wilberforce, the great champion of the African race. Having succeeded, after a parliamentary struggle of nearly twenty years, in putting a stop to further importations of slaves from Africa, they have insisted that the colonial legislatures should impose some restraints on the authority of the master. This further object being in like manner attained, they begin now to look to a general emancipation. Nor, if this were effected, would they stop there—the same party would not be satisfied with a mere exemption of the blacks from personal servitude, but would insist that there should be an equality of rights between the two races—every other privilege and distinction—that of birth, of wealth, of religious opinion, being fully tolerated, except the peculiarly odious one of a white skin. For this they can have no toleration. They would then eventually claim for the blacks the right of voting at elections—of being eligible to all offices—and of intermarrying with the whites.

That the friends of the blacks will not stop short in the midst of their successful career, that they will urge these further concessions on the part of the whites, we have clear indications. The leaders of this party do not hesitate already to avow, that such are their views; and what they now advance as speculative

truth, the multitude will by and by clamorously demand, and *per fas aut nefas* enforce.

Thus, the Westminster Review of Jan. 1826, in a plan of gradual emancipation which it proposes to the southern states, gravely recommends the admission of the free coloured man, to *all* the powers and privileges of a white man, and the removal of all the disabilities and prohibitions which operate against the marriage of white, with free coloured persons.

When the friends of the blacks in Great Britain have been thus steadily rising in their demands, it is not surprising that the slave owners, who consider that all they hold dear would be endangered by such a course of policy, whether their inferences be well or ill founded, should resist that policy, not merely on account of the inconvenience which any particular measure may produce, but of the much greater mischief to which it ultimately tends. Those who in England make their efforts in the cause of negro slavery a matter of conscience—who turn their eyes from the million of suffering paupers in their own country, and the three or four millions in Ireland—from the eighty millions of Hindoos in a state of abject political vassalage, and many of them actual slaves, and those who, deaf to these calls upon their sympathy, have set their hearts upon raising the slave to the level of the white, may continue to goad the West India planter to further concession, and wring from his fears, what they could not obtain from his interest or inclinations. But the friends of the blacks in this country, and those who are opposed to slavery, as much on account of the whites, as of the negroes, must pursue a very different course, if they would succeed in their wishes. Emancipation can never take place here, but by the consent and co-operation of the slaveholding states themselves. They must take their own time—form their own plans—pursue their own measures: and they never can be brought to move in the business, until they are convinced that it is their interest to do so. But if they believe that the advocates for emancipation, in their zeal to effect their favourite object, will be utterly regardless of their feelings—prejudices, if you please—and that they will ultimately entertain such wild and preposterous notions as have been quoted from the Westminster Review—such belief will prejudice them against every plan of melioration, however temperate or feasible. While, therefore, the abolitionists of England, who have to operate on the fears of the whites of the West Indies, may succeed in proportion to their zeal, those of the United States must owe their success entirely to their moderation, and the conviction they can produce on the minds of the slaveholders.

Any scheme which they may propose, must then not only be shown to be conducive to the interests and security of the whites, but must not offend their settled prejudices. Of this character

is the plan for amalgamating the two races, which has been so philosophically proposed in the *Wesminster Review*; and which could never have entered the head of any one who was not utterly ignorant and inexperienced on the subject. It is as impracticable, because it is equally repugnant to the feelings, as the scheme said to have been suggested by a distinguished French traveller in this country, of rendering the male portion of the blacks physically incapable of propagating their race. Did not this ingenious reviewer know, that his government, great as is its influence over the minds of the Hindoo, and unlimited as is its power, has never been able to do away the prejudices of caste, and make a Brahmin marry with a Soodra, though they are of the same race, religion, and manners? Verily, his notable plan of reconciling differences, might be exercised to great advantage in his own country. There is certainly field enough; and if the Dissenters complain of test and corporation Acts, they have nothing more to do to relieve themselves, than to turn Church of England men. If the Catholics of Ireland are subject to grievous disabilities, they may remove them by embracing the Protestant religion. Nay, there is a yet shorter and simpler process of attaining the same object; and that is, by some dozen or two individuals in either house of Parliament, saying aye instead of no, and the work is done. Yet simple and easy as is this process, those who are thus disfranchised, have been in vain seeking relief for the last forty years, and seem as far from attaining it as ever, although, too, their object has the countenance and support of a large majority of the wisdom and talents of the nation in its favour—while that of amalgamation has not the approbation of a single individual in the slaveholding country, or perhaps of any one who has ever lived in it. We know of nothing to match the ingenuity and efficacy of this plan, but that of Captain Bobadil for defeating an entire army with five-and-twenty men.

When such crude and flimsy schemes of reform are brought forward by sensible men, it shows how utterly incompetent it is for those to give wholesome counsel in the case, who have no personal acquaintance with the subject. It is as if a physician were to prescribe in a case in which he had no knowledge of the patient, and had never witnessed either the exhibition of the remedy or the symptoms of the disease. These propositions have been mentioned, merely as examples of the incapacity of any others to prescribe a remedy for slavery, except those who feel its inconveniences, and whose knowledge of the opinions, feelings, and habits, both of the blacks and the whites, will give them the best chance of devising a remedy that is adapted to existing circumstances.

We claim to have derived what we know on this subject, from personal observation; and we propose to lay the opinion which

we have formed from that observation, before our readers, by exhibiting a parallel between the state of slavery in the United States and the West Indies; in which we shall briefly consider the condition of the slaves—the effects of slavery on the whites, both moral and political—and the practicability of a remedy.

There is much truth in the following remarks of our author, on the misconceptions which prevail with regard to slavery in the West Indies; and they are not inapplicable to many portions of the United States. “There are many in this country, [meaning England] and by no means in the lowest stations, who never hear the subject mentioned, but they have before their minds, chains, dungeons, scourging, maiming, wounding, and death. To their terrified imaginations it appears the land of horrors, where cruelty sits in brief authority, and the oppressed drag out a gloomy life in groans and tears, without any of the comforts of existence, and of course, without manifesting any signs of enjoyment.” Even where these exaggerated pictures of the sufferings of the slave, do not present themselves to the fancy of the inexperienced, these naturally judge of it by putting themselves in the place of the sufferer, and estimate his feelings by imagining what their own would be in a similar situation, without recollecting that those who are born slaves, grow up with ideas and sentiments accommodated to their situation, and that much of what is most painful or humiliating to men born free, is not felt by the slave to be any evil at all. We will however proceed to our parallel, by a brief notice of a few leading topics.

Food and clothing.—Mr. Barclay thus sketches the houses and mode of life of the slaves in Jamaica:—

“The most common size of the negro houses is twenty-eight feet long, by fourteen broad. Posts of hard wood about nine feet long, or seven above ground, are placed at a distance of two feet from one another, and the space between is closely wattled up and plastered. The roof is covered with the long mountain-thatch, palmeto-thatch, or dried guinea-grass, either of which is more durable than the straw-thatch used in this country. Cane tops are also used for the purpose, but are not so lasting. To throw off the rain, the thatch is brought down a considerable distance over the walls, which in consequence look low, and the roof high. The house is divided into three, and sometimes four apartments. The room in the middle, occupying the whole breadth of the house, has a door on each side, to admit a circulation of air. This is the sitting apartment, and here the poorer class make fire and cook their victuals; the more wealthy have a separate kitchen at a little distance. The smaller houses have the sitting room in one end, and two sleeping apartments in the other.

“Behind the house is the garden, filled with plantains, ochras, and other vegetables, which are produced at all seasons. It abounds also with cocoa-nut and calabash trees. A good cocoa-nut will be a meal to a man, and boiled among the sugar (which the negroes frequently do), would be a feast to an epicure. It contains also about a pint of delicious juice, called ‘*cocoa-nut milk*,’ the leaves, which are thick, and twelve or fifteen feet long, are shed occasionally all the year round, and not only make excellent fuel, but are sometimes used for thatch. The nut also yields oil for lamps, and the shell is made into cups. Thus one tree affords meat, drink, fuel, thatch, oil for lamps, and cups to drink out of! No

wonder it is so great a favourite, that every negro village looks at a distance like a cocoa-nut grove. This singularly valuable and beautiful tree, (the fibry part of which is, in the East Indies, manufactured into ropes and clothing), serves also another purpose: from its great height, and perhaps in some degree from the pointed form of its leaves, it is very liable to be struck by lightning, and it affords, near a house, the same protection as a metallic conductor. Many a headless trunk stands a memento of violent thunderstorms. But though thus liable to be blasted, and occasionally rent by the electric fluid, it is never shivered or thrown down; and its slim elastic stem bids defiance to the utmost fury of the hurricane. Blossoms, ripe fruit, and green, are to be seen upon it at all seasons of the year, and it thrives in the most indifferent soils.

"The calabash tree produces a large fruit, not eatable, but nevertheless valuable, as the skin of it is a hard and solid substance, like the shell of a nut, and when scooped out, answers the purpose of holding water, or, cut across the middle, makes two cups or dishes. Every negro has his calabash, and many have them carved with figures like those which are tattooed on the skins of the Africans. They are used to carry out their breakfast to them when at work in the field; and from their lightness and strength, are preferable for this purpose to almost any other kind of dish. Tin pans, however, are sometimes used. In the garden too, and commonly under the shade of the low outbranching calabash tree, are the graves of the family, covered with brick tombs.

"They have also their hogsties: poultry houses are not wanted; the chickens are carefully gathered at night, and hung up in baskets, to preserve them from the rats. The fowls lodge at all seasons in the trees about the houses. The premises belonging to each family are commonly surrounded with a fence; their provision grounds are generally at some distance.

"The furniture in the negro houses of course varies very much according to the industry or otherwise of the family. Some of the Africans have no idea of domestic comfort, and are so improvident that it is utterly impossible to make them comfortable. They will sell their very clothes to buy rum, nay, the pot given them to cook their victuals in; and I have known several instances of their pulling down and burning the very wattling of the houses provided for them, rather than take the trouble to collect fire-wood, although in abundance almost at their doors. With these nothing can be done; but their number is now small. The ordinary class of negroes have fixed beds, covered with deal boards and mats, on which they sleep under a single blanket or sheet, which is all that the climate requires. The rest of their furniture consists of a trunk or chest to hold their clothes, a small cupboard for their cups and dishes, iron pots, and tin pans for cooking, a plain deal table, bench, and a few chairs. The more wealthy, of which the number has increased much during the last ten years, sleep on beds filled with the dried leaves of the plantain tree, used also by the free people of colour: and the whole of their furniture, as I have before observed, is such as would astonish an English visitor, who, seeing it, would not easily believe himself in the house of a slave."

For such of our readers as have not travelled south of Pennsylvania, we state, that the houses of the negroes on the farms and plantations in Virginia and the adjoining states, are usually built of logs of timber, and are from twelve to sixteen feet square, and though rude and unseemly, they are very comfortable both in summer and winter; the large logs of which they are made, being better nonconductors than brick or stone. Every family inhabits one of these houses, to each of which is attached a small garden, that furnishes them with beans, cabbages, potatoes, melons, and other esculent vegetables. On a large estate, their houses are placed near each other, on some spot contiguous to a good spring, so as to form a small village, in which there is com-

monly as much real enjoyment, and far less misery, than the labouring class of any country enjoy.

In consequence of the abundance and cheapness of provisions in our country, they are better fed than are, probably, the peasantry of any country. In the western states, and that part of the middle states which lies above tide water, the slaves have a liberal supply of animal food, it being furnished them once or twice a day. In the country nearer the coast, the supply is more scanty, but the difference is compensated by the ease with which they can procure fish, oysters, or crabs. They every where are allowed to rear poultry—and can vary their diet by the savoury flesh of squirrels, rabbits, and opossums, which they are expert in catching, and the hunting of which on moonlight nights, constitutes one of their favourite amusements.

In the article of diet, the slaves of the United States must have the advantage over those of the West Indies. But the great variety of fruits and esculent vegetables which tropical climates produce in such profusion, is more suited to the human appetite there than mere animal food. In clothing, the difference between them is not material. In both countries it is comfortable, though coarse, and in sufficient quantities. But there is nothing in which their condition has been more improved than in this. It is far more rare to see them in rags now than it formerly was, and many who had shoes only in the winter months, now wear them all the year. The ordinary allowance to slaves on the estates, by the owners in the southern states, is two suits a year.

Amusements.—Here there is a wide difference in the kind of recreation enjoyed by the slaves in the United States and the West Indies, but probably not much in the degree:—

“The day on which the last of the canes are cut down upon a sugar plantation, flags are displayed in the field, and all is merriment. A quart of sugar and a quart of rum are allowed to each negro on the occasion, to hold what is called *CROP-OVER*, or *harvest-home*. In the evening, they assemble in their master's or manager's house, and, as a matter of course, take possession of the largest room, bringing with them a fiddle and tambourine. Here all authority and all distinction of colour ceases; black and white, overseer and book-keeper, mingle together in the dance. About twenty years ago, it was common on occasions of this kind, to see the different African tribes forming each a distinct party, singing and dancing to the *gumbay*, after the rude manners of their native Africa; but this custom is now extinct. Following the example of the white people, the fiddle, which they play pretty well, is now the leading instrument; they dance Scotch reels, and some of the better sort (who have been house servants) country-dances. Here the loud laugh, and the constant buzz of singing and talking, bespeak their enjoyment, and the absence of all care about the present or future ills of life.

“Such dances were formerly common, or I should rather say universal, at Christmas; but of late years have much gone out, owing to an idea impressed on the minds of the negroes, principally I believe by the missionaries, that the season ought rather to be devoted to religious exercises. It is now considered more becoming to attend the places of worship, or to have private religious parties among themselves; and in passing through a negro village on a Christmas night,

it is more common to hear psalm-singing, than the sound of merriment. The young people, however, still indulge in some amusements on this occasion, one of which may be worth describing. The young girls of a plantation, or occasionally of two neighbouring plantations leagued, form what is called 'a sett.' They dress exactly in uniform, with gowns of some neat pattern of printed cotton, and take the name of Blue Girls, Yellow Girls, &c., according to the dress and ribbon they have chosen. They have always with them in their excursions, a fiddle, drum, and tambourine, frequently boys playing fifes, a distinguishing flag which is waved on a pole, and generally some fantastical figure, or toy, such as a castle or tower, surrounded with mirrors. A matron attends, who possesses some degree of authority, and is called Queen of the Sett, and they have always one or two Joncanoe-men, smart youths, fantastically dressed, and masked so as not to be known. Thus equipped, and generally accompanied by some friends, they proceed to the neighbouring plantation villages, and always visit the master's or manager's house, into which they enter without ceremony, and where they are joined by the white people in a dance. Some refreshment is given to them, and the Joncanoe-men, after a display of their buffoonery, commonly put the white people under requisition for a little money, to pay the fiddler, &c. A party of forty or fifty young girls thus attired, with their hair braided over their brows, beads round their necks, and gold ear-rings, present a very interesting and amusing sight, as they approach a house dancing, with their music playing, and Joncanoe-men capering and playing tricks. They have generally fine voices, and dancing in a room they require no instrumental music. One of their best singers commences the song, and unaccompanied, sings the first part with words for the occasion, of course not always very poetical, though frequently not unamusing; the whole sett joins in the chorus as they mingle in the dance, waving their handkerchiefs over their heads. All is life and joy, and certainly it is one of the most pleasing sights that can be imagined."

There is nothing exactly correspondent to this, among the slaves of Maryland and Virginia, or that savours so strongly of their African origin. Their amusements are pretty much of the same character as those of the whites. These are, dancing, music, and hunting or fishing; and some of the occupations of husbandry are to them occasions of festivity and merriment. In "pulling fodder," that is, stripping the Indian corn of its blades, and in gathering the grain itself, they join in rude songs, which are made by some *improvisatore* of the company. But the favourite occasion for these "corn songs," is at their *shucking matches*, when as many of the negroes of the adjoining farms as choose to attend, meet at the fodder-stack, and pass more than half the night in singing, drinking, and in the easy operation of ridding the ears of the Indian corn of their natural covering. Indeed, they are characterized by nothing more than by their lightheartedness and cheerful tempers, whether it proceed from natural temperament, or be the effect of plain wholesome diet, and moderate exercise, —or because their minds are relieved from the corroding cares of providing for the future—or whether it is produced by all these together. They are thought to have good ears for music, as well as a lively relish for it; but their performances, in this way, are commonly confined to the fiddle or the fife—the Banja, which they brought from Africa, has been almost forgotten, with the *Obeah* and Joncanoe-men. In the entertainments of the household slaves, and those who live in the towns, they

closely imitate the manners and style of the whites; and, on these occasions, exhibit no very mean representations of "high life below stairs." In the towns, like their betters, they indulge in cards; but, in the country, they rarely engage in any species of gambling sport, except in cock-fighting on Whitsuntide; and even that is not general.

Religion. Though the minds of the West India slaves are still in a very rude state as to religion, and are strongly tinctured with the superstitions of their parent land, there has been a great improvement among them in this respect. They are more frequent in their attendance on church. They are now generally baptized; and many of them are married according to the Episcopal rites of the church; but, in the United States, the change has been yet greater. There are few negroes in Maryland, Virginia, or North-Carolina, who do not belong to some one of the prevailing sects—Baptists, Methodists, Presbyterians, or Episcopalians, but the greater part to the two first. Many of them are regular professors of religion, by which is implied a strict conformity to the rules of their sect; and some are regular preachers. A devotional spirit is far more general with them than with the whites.

Marriage. With the blacks in the West Indies, the marriage rite is commonly confined to the people of colour, or the more intelligent class of negroes. Here, it is general, though it is commonly performed by their own preachers. Polygamy is much rarer than it was. Man and wife, in the West Indies, commonly live on the same estate; but in this country, in probably the greater number of instances, they have different proprietors; and although, on this account, the West India slave may appear to have greatly the advantage as to domestic happiness, yet, as in a large majority of instances, our slaves are able to visit their wives two or three times a week, these separations give a zest to their meeting which the others can never know. The husband and wife are seldom so far separated by distance, as to break off the connexion, unless by way of punishment for some great offence. They are often, it is true, as Mr. Barclay observes, sent to some distant state, and separated from their other relatives and early homes—but not oftener than the whites; and when they move with the families in which they were brought up, or have long lived, they never object to it; and it must be remembered, that the tide of emigration always sets to a more plentiful country. There are few instances in which they would not prefer following their masters to a distant state, rather than be sold to another in their former neighbourhood, except when they would leave a wife or a husband. They seldom voluntarily separate from each other, though there is nothing to restrain their inclinations, in this particular, but the injunctions of religion; and they were

quite as constant, when their marriages were less solemn than they are at present. It is not uncommon for them to pass a long life together.

Instruction. There seems to be no particular provision for this, either in the West Indies or the United States; and unless there were a prospect of improving their political condition, it seems neither consistent with the safety of the whites, nor conducive to the happiness of the slaves, to give their minds much cultivation. Their own efforts in this, however, are manifestly greater than they were. The number of individuals who can read, has greatly increased. But few among them, however, are able to write. In some families, instruction is systematically given by some one of their fellow-servants, whom chance has qualified for the office of teacher. Their aptitude for acquiring the rudiments of learning, seems not inferior to that of the whites; on one occasion, we have known of a small negro girl, who learned to spell very readily by hearing the children of the family instructed, though she did not then know the letters by her eye.

Property. It would seem as if, from Mr. Barclay's book, it was easier for slaves to acquire property there than here. What little property they possess in the United States, is most scrupulously respected; but this is seldom more than their clothes, the furniture of their cabins, and their poultry. There are occasional instances of their acquiring, by petty traffic, as mechanics, or in the character of ostlers or servants at a public house, a sum of money sufficient to purchase their freedom; but these instances are rare. In a few cases, they have been aided by those humane persons to whom they have recommended themselves by their merit. When this is their object, their conduct is generally unexceptionable; they are sober, industrious, orderly, and particularly scrupulous about their character. If their numbers were not too great to make emancipation safe, we are persuaded that the best plan of effecting it would be, to make their manumission depend on their previous good conduct—as they would then, during their servitude, receive the best preparation for a state of freedom—without which preparation, it is often rather a misfortune than a boon. The free people of colour are more frequently mechanics, or house servants, than agricultural labourers. They prefer the towns to the country. They are barbers, carpenters, blacksmiths, coopers, carriage-drivers, and fiddlers.

Punishments. Here, too, the advantage is greatly on the side of the slaves in the United States; for, though there are no instances here of legislative restraints on the power of punishing, yet corporal punishment is probably much more frequent there than it is with us. Here are no iron collars, no branding, which, softened as it may be, has something very shocking to those not accustomed to it. Punishments of any kind are far less frequent than

formerly. There are many middle-aged servants, who have never received a blow since they were adults; and stripes on the bare back are rarely inflicted, except for some flagrant offence. We should suppose, that in the states of Maryland and Virginia, corporal punishment of this character is as unusual among slaves, as it is among the class of common sailors. In the West Indies, slaves charged with capital offences are tried by a jury; while in most, if not all the slaveholding states, they are tried by a court, the intelligent members of which furnish a better safeguard against injustice, than a jury taken indiscriminately from the community, more especially when the offence is of a character to awaken popular prejudice, such as a conspiracy to revolt, or to poison, &c.

If slavery in the United States appears to be of a milder character than it is in the West Indies, when the condition of the slaves is examined in detail, the difference is confirmed beyond a question, by a comparison of their greater natural increase. Mr. Barclay, it is true, combats this inference, and acknowledging that the numbers have been stationary in Jamaica, endeavours to account for this fact, by the prevalence of particular diseases, and by the great disproportion of negroes of advanced age, arising from the circumstance that the negroes imported from Africa are commonly adults. But without wishing to disprove the general fact, that there has been a great melioration in the treatment of slaves in Jamaica, we do not think that the circumstances mentioned by Mr. Barclay warrant his inferences—especially the last; for it is now nearly twenty years since the slave trade was abolished, and although the imported slaves were chiefly adults, yet they were of that age which admits of the greatest proportional increase; and a population composed of that description of persons, would double sooner than any other. Thus, we find, that in the new states, in which we know a larger proportion of the emigrants are adults, there were more persons under ten years of age, than in the older states. In Massachusetts, Connecticut, and Virginia, to which few persons migrate, the number of children under ten was less than a seventh; but in New-York, Ohio, and Illinois, it was from a fifth to a sixth.

“On estates in Jamaica peopled with Creoles, or having few Africans, there is even now a large annual increase of numbers; and on the same principle, in the old settled island of Barbadoes, into which few Africans have been imported since 1786, and where consequently they must now be nearly all extinct, there is an excess of births over deaths to such an extent, that, on a population amounting, in 1812, to 69,000, there was found, in 1820, an increase of 9,000. A similar increase has taken place in Virginia, into which importation ceased in 1775; and where there probably is not now a single African alive.”

After enumerating the supposed reasons for the *decrease* of the slaves in Jamaica, Mr. Barclay adds, that “these causes have now in a great measure ceased to exist; and when the over pro-

portion of aged persons have died off, it cannot be doubted that a body of labourers provided with houses and homes, and unrestrained by the difficulties which oppose matrimonial connexions among the labourers of England, will rapidly increase." We sincerely hope his prediction will be verified; but no increase that has yet taken place, not even that mentioned in Barbadoes, of 9,000 on 69,000 in eight years, approaches the increase in the United States. The increase on the same number would, in the period mentioned, have been upwards of 15,000.

But, say the abolitionists, in answer to all these proofs of the comforts of the slave's condition in the United States, these are evidences only that the more imperious wants of his nature are gratified: his greatest want of all—that of freedom of will and action, is unsatisfied; and in wanting that, he wants what is essential to the enjoyment of every other. This conclusion would be just, if it were not that the condition of one who has been born and bred in slavery, is incompatible with great self-respect or much refinement of feeling; and it is this which constitutes one of the main evils of the condition. The moment you exalt a slave in the scale of being, and he approximates to the sense of personal dignity which freedom inspires, that moment he ceases to be happy. What were previously comforts and enjoyments, fade into insignificance, for want of that which gives a zest to all, or become actually embittered by the consciousness of his degradation. Enlightened benevolence must then wish the negroes to be free, if it wishes for them moral and intellectual improvement; or, if the difficulties of emancipation be insuperable, that they should remain in their present state of comparative ignorance. Yet surely it would be gratifying to every honest and liberal mind, to see them participating in that improvement of which the human species is capable, and to which our own race is rapidly tending, without a diminution of its happiness.

But we have yet stronger motives to desire their freedom, than general sympathy can produce. We ought to wish it yet more for our own sakes than for theirs. Self-interest should make every white citizen in the Union desire to see slavery diminished at least, if it cannot be entirely abolished. With the slaveholding states the interest is direct, urgent, and preponderating. This will appear, by considering the effects of slavery on the morals, wealth, and safety of the community.

The moral effects of slavery on the slaveholders themselves, are, unfortunately for the cause of emancipation, of a very mixed character. It is favourable to some good qualities, as well as bad ones. If the proprietor of slaves is apt to be irritable, overbearing, indolent, and improvident, he is also likely to be frank, generous, warm in his attachments, sociable, and hospitable. The high sense of personal dignity with which the habit of authority

and command inspires him, makes him courteous in his manners, liberal in his sentiments, generous in his actions. But, with his disdain of all that is coarse, and little, and mean, there often mingle the failings of a too sensitive pride; jealousy of all superiority; impatience of contradiction; quick and violent resentment. His liability to these vices is so obvious, that it is often an especial purpose of early instruction to guard against them; and thus is formed in happy natures, such a habit of self-command and virtuous discipline, as to make them remarkable for their mildness and moderation. Of the four presidents whom Virginia has furnished, it is well known that all have been remarkable for their self-command, or their amiable placidity of temper. Mr. Jefferson, who has given so lively a description of the effects of slavery on the temper of the slaveholder, and whose views are just in the general, was himself a remarkable exception to the unamiable picture which he has drawn. Indeed, it depends altogether upon the use which is made of power, whether the possession of it be favourable to virtue or to vice. Whether it be exercised with gentleness and kindness on the one hand, or with violence and selfishness on the other, those who exercise it are equally liable to have these qualities strengthened by habit; and a slave owner, who is often made, by the circumstances in which he is placed, notorious for cruelty or haughtiness, may, by a different course of circumstances, be rendered distinguished for the opposite virtues.

Whether the good or evil effects on the moral character of the whites preponderate, is a question which evidently depends upon the tastes and habits of each individual; and if we were to give any opinion, we would say, that it is more likely to elevate the character of a few individuals somewhat higher, and to deteriorate that of the multitude still more than they would otherwise be: but admitting that it is upon the whole improved, we must not forget that the character of the blacks is in the same degree deteriorated and debased. The consequences of the idleness which slavery favours with the whites, are, that both by making labour unnecessary as well as degrading, the slave owners are apt to want diligence, perseverance, and business-like habits. They are therefore less likely to engage in the diligent prosecution of science, or any pursuit which requires labour and research, and are comparatively less fitted for the orderly exactness of commercial pursuits. Moreover, it encourages the vices of gaming, drinking, and other sensual indulgences, which are resorted to because they afford relief against the vacuity of idleness. Intemperance in drinking is naturally more a vice of cold than of warm climates; yet we believe, that owing to the idle and social habits of the slave owners, it is more prevalent in the southern states than in New-England.

Slavery is also favourable to habits of extravagance, and the love of ostentation. The important and very difficult duty, of adapting expenses to income, is a rare virtue in the southern states. Some shallow observers* have remarked, that the people of the United States showed a disposition to parsimony, and they have ingeniously accounted for it by the writings of Dr. Franklin. They are partly mistaken in the fact, and altogether wrong in the reasoning. The remark is not true as it respects the slaveholding states; and Franklin's economical precepts are rather the *consequence* than the *cause* of the frugal and industrious habits of his countrymen in New-England. The greater leisure of the proprietors of slaves, as well as their aversion to labour, makes them more inclined to the pleasures of society, which again naturally lead them into greater expense in their houses, tables, and equipages. They also trust more to agents: they do all they can by proxy, and vicarious work is seldom well done. Slavery thus inclines the class of proprietors to spend money, in the same proportion as it unfits them for making it.

The political mischiefs of slavery are no less striking. It is particularly unpropitious to national wealth. As the slave is not to reap the reward of his own labour, and is supported at another's expense, he is obviously impelled by the strongest motive of self-love, to produce as little and to consume as much as he can. It is true, that the master's power and supervision are sometimes able to counteract these tendencies; but he never can do it effectually; and this very supervision, which is a necessary part of the apparatus, constitutes one of its burthensome charges.

But it is the influence of slavery on the *white* population, by which the national wealth is principally diminished. In the slaveholding states, nine-tenths of the productive labour are performed by the slaves. The occupations of the whites are principally confined to the liberal professions, to civil offices, or to superintending the labours of the slave. By much the largest part of the operations of the blacksmith, carpenter, cooper, and shoemaker, is carried on by slaves. It is indeed the idleness and extravagance of the master, rather than the indolence and improvidence of the slave, which make the annual product of slave countries less than of those that are free, and so strikingly retard their progress to wealth. Hence it is that Virginia, which was settled nearly a century before Pennsylvania, is a less improved and a less opulent state—whether we regard its bridges, roads, and other public improvements, the price of its lands, its population, its commercial, manufacturing, or agricultural wealth. Virginia,

* See Supplement to Encyc. Brit. article Franklin.

too, has long given symptoms of a redundant population, while Pennsylvania still manifests undiminished powers of increase. But what comparison can there be between the progress of a country in which one-half its population is idle and the other work reluctantly, and of another, in which every one is brought up to be industrious and prudent? The difference is that of a boat propelled by oars, and by steam.

Such are the present effects of slavery on the wealth of the country. Its deleterious influence on the national strength and safety, is too obvious to be insisted on. The immediate dangers of revolt, indeed, we are not disposed to estimate very highly. The difficulty which the slaves would experience, of acting on any concerted and extensive plan, without detection; the contentment of the greater number with their condition; and their utter conviction that they would be *finally* unsuccessful—makes the danger of insurrection not very probable. Yet, remote as is the danger, it is occasionally a source of disquiet and alarm; and during war, every part of our maritime frontier, in the slaveholding states, must feel that it is peculiarly exposed to the seductive arts, as well as to the hostile incursions, of an enemy.

If such are the present inconveniences of slavery, how much greater are those with which we are threatened at a future day! Whatever may be the evils of emancipation, and of having two uncongenial, irreconcilable races in the same community, the time must come when a part of these states must be prepared to encounter these evils.

According to the census, the increase of the slaves, in the principal slaveholding states, from 1790 to 1800, was 28 per cent.; from 1800 to 1810, 35 per cent.; and from 1810 to 1820, 29 per cent. The greater increase in the second term (from 1800 to 1810) proceeded partly from the acquisition of Louisiana, and partly from the extraordinary importations into South-Carolina, Georgia, and Louisiana, immediately before the prohibition of the slave trade in 1808. As the rate at which they increased in the other two terms is nearly the same, (one being 28.54, and the other 29.11,) that may be presumed to be nearly the rate of their increase, so long as their labour is worth more than the expense of rearing them. At this rate, they will double their number in something less than twenty-eight years; and their annual increase is $2\frac{1}{2}$ per cent.

There has indeed been a continual diminution in the ratio of the increase of the whites, which is partly because marriages are somewhat less early than they were, and partly because the emigrations from Europe have a less and less comparative influence. But these circumstances do not operate in the case of the slave. He is exempted from the care of providing for a wife and children; he has no long course of education to go through before

he marries; he has no schemes of ambition or avarice to accomplish by marriage; and the increase of moderate restraints, arising from the progress of religion and of mental improvement among the slaves, is on the whole rather favourable to their multiplication. We may therefore expect their present rate of increase to continue undiminished for a long course of time. One certain consequence of this continual increase of numbers, must be a gradual fall in the price of labour, and a gradual rise in the price of provisions; by the operation of which, the time will arrive when the cost of rearing a slave will exceed the value of his labour. Such is now the case in China and Ireland, and very nearly the case in the more populous districts of Europe.

At a certain point in this progress, a large proportion of the blacks will be free; that is, they will have the fruits of their own labour, in consideration of supporting themselves—since the diminished profits of labour will not defray the expense of superintending it, nor compensate the cost of rearing children, which duty must rest for its performance where nature intended it should rest—on parental affection. Personal freedom, or a mitigated species of servitude approaching to freedom, such as now exists in India, will be better suited than slavery to that state of things; and therefore it will be permitted, and even encouraged by law—subject however to regulation, and restrained only in the case of those who are helpless from age or disease. In the most southern states, perhaps, which exclusively produce commodities that are in general demand, and where bodily labour is particularly irksome, they may always avail themselves of their natural monopoly, and compel other countries to purchase these commodities from them, at the additional price arising both from the dearness of slave labour, and from the pressure of population. But this effect cannot take place, where the products are such as are to be found in the temperate climates. If, then, slavery is destined to have a protracted existence in Louisiana, Florida, Georgia, and South-Carolina, where they cultivate sugar, indigo, and the sea-island cotton, as it yet has in Hindostan, in the other slaveholding states, where they cultivate the more common products of grain, hemp, wool, and cattle, it must die a natural death, as certainly as it has expired in the greater part of Europe.

Here, then, is a second important fact:—the freedom of the greater part of the black population is as irresistible as their increase. A third is, that in those states in which the blacks will then be free, and equal, perhaps superior to the whites in number, they will not quietly submit to be excluded from civil rights and privileges.

There are, indeed, in the history of mankind, not wanting instances of one class of a community excluding another from a participation of civil rights; and it often happens, that the class

thus excluded is by much the more numerous. The Catholics in Ireland; the slaves of ancient Greece and Rome; the natives of Spain when that country was in possession of the Moors, are all examples of this fact; but they are also examples of the disquiet and danger which ever attend domestic slavery; and in the case which is most nearly parallel to ours, that of Spain, the subordinate party rose on their oppressors, and finally drove them out of the country.

Here, the two classes are formed of distinct races, distinguished from each other in complexion, feature, and form, from which diversity arise a closer union and a livelier sympathy among the individuals of the same condition, as well as a more irreconcilable separation between the two races. At present, the acknowledged natural superiority of the whites over the blacks, begets a degree of moderation and indulgence on the part of one class, and of obedience and respect on the part of the other, which neither would feel, if the two stood in the relation of rival and hostile castes. At the period we are supposing, the whites would be impatient of equality; and the blacks would resist the contemptuous treatment they received. Their claims to a participation of civil right, would no doubt be gradual; but as they would be made in gradual succession, all the general doctrines on which republican government is founded, would be brought to enforce them, and would produce conviction and make friends with not a few among the whites themselves. The consequence then would be, either a full and complete participation of all rights, civil and political, or a constant struggle between the two races. Should the blacks prevail in the contest, and be admitted to a political equality, the two races must in time become amalgamated. The negroes, free to acquire property and distinction, would often succeed in doing so; and until there be a union of the two colours, the blacks will generally prefer marrying with the whites. The prejudices of the latter, if not entirely subdued, would so far yield, as to let property compensate for the inferiority of the caste; and alliances between ignoble wealth and high-blooded poverty, would neither be difficult nor rare.

While this process of melting the two races into one was going on, the black would no doubt be regarded as the inferior caste: but the consciousness of this would serve to unite them more closely, and to give a proportional force and efficiency to all their operations. They would be united, or at least the great mass of them would be united in the elections, and persons of colour would obtain appointments of trust and honour, for the purpose of conciliating the whole body.

If these speculations be well founded, we must make up our minds, that the southern states, if things are left to their present course, are to be inhabited by a mongrel race, or to be the theatre

of civil dissensions, and perhaps of intestine war—of dissensions more bitter, and war more fierce and vindictive, than commonly afflict our species.

The first part of the alternative may be regarded as a very insignificant matter by European philosophers and reviewers, but there is no citizen of the slaveholding states—none, we would hope, of the other states, who can contemplate it with indifference. The chief part of our countrymen conscientiously believe, that such a mixture of the two races would deteriorate both our physical and intellectual character. Of this hypothesis, we give no opinion. It however does not want arguments both of reason and authority to support it, but whether it be true or false, so long as it prevails among our citizens, they will view with aversion and dread, what must subject all of their country and race to a lasting physical debasement. Nor can they be expected to be indifferent to the future jeers and scoffs of the unmixed European race on either side of the Atlantic, who, with the ever-ready disposition of mankind, to claim a merit from any peculiarity of their own, would twit them with the ignominy of their descent.

Should these considerations be sufficient to prevent an incorporation of the two races, and their mutual hostility terminate in war, it would be a war of extermination. There could be no medium between equality of the two classes and the entire subjection of one of them; nor would the victorious party be satisfied with any thing short of an exclusive possession of the country.

To some, these events may not seem probable, as dependant upon so many contingencies. Unwilling to survey closely a scene that promises nothing agreeable, they may indulge a vague hope, that something may occur to avert the disastrous results we have contemplated. But all who reason at all on the future, however they may differ about the time or the character of the crisis, must admit, that, if things be suffered to go on in their present course, the slaveholding states must inevitably, at some future day, be placed in a most difficult dilemma, in which they can neither safely make concessions to the blacks, nor withhold them; and that there is no conceivable termination of the danger, to which they can look forward without pain and humiliation.

What, then, it will be asked, is to be done? Must the people of the slaveholding states patiently endure the present evils of their situation, and the far greater which threaten them?—must they act like the Indian, who, finding himself hurried by the irresistible force of the torrent to the brink of the cataract, folds his arms, and unresistingly meets his fate? or, is it not possible to avert the danger? If it be possible, it must be by greater efforts than have been yet made, and they must be made by the present

generation. The evil advances with increasing strides, and if not soon averted, their utmost endeavours will be hopeless.

For the purpose of removing or mitigating it, different schemes of emancipation and colonization have been proposed: but as any general plan of emancipation, not accompanied with a removal of the blacks out of the country, would lead to the calamitous results that have been mentioned, we shall confine our attention to the principal plans of colonization. These are, first, to colonize the blacks in Africa; second, in the country west of the Rocky Mountains; and third, to transport them to St. Domingo.

The first, that of colonizing the blacks on the coast of Africa, has this peculiar recommendation, that it restores them to the country from which they had their origin, and to which nature has especially adapted them: it may, moreover, be the means of introducing civilization and the arts into a country that has not yet emerged from barbarism. This has, accordingly, always been a favourite project with those who sought a remedy for the evil of slavery; and it gave birth, in 1816, to the "American Colonization Society," whose immediate purpose was to establish a colony of free blacks from the United States, on the coast of Africa, by means of individual contributions; and in the event of the plan succeeding, to solicit aid from the general and the state governments. The society convenes annually at Washington, and at their meeting in January last, Mr. Clay delivered the speech which is noticed at the head of this article. He thus eloquently states the purposes, and vindicates the motives of the Society:—

"The object of the Society was the colonization of the free coloured people, not the slaves, of the country. Voluntary in its institution, voluntary in its continuance, voluntary in all its ramifications, all its means, purposes, and instruments are also voluntary. But it was said that no free coloured persons could be prevailed upon to abandon the comforts of civilized life, and expose themselves to all the perils of a settlement in a distant, inhospitable, and savage country; that, if they could be induced to go on such a Quixotic expedition, no territory could be procured for their establishment as a colony; that the plan was altogether incompetent to effectuate its professed object; and that it ought to be rejected as the idle dream of visionary enthusiasts. The Society has outlived, thank God, all these disastrous predictions. It has survived to swell the list of false prophets. It is no longer a question of speculation, whether a colony can or cannot be planted from the United States, of free persons of colour, on the shores of Africa. It is a matter demonstrated; such a colony, in fact, exists, prospers, has made successful war, and honourable peace, and transacts all the multiplied business of a civilized and Christian community. It now has about five hundred souls, disciplined troops, forts, and other means of defence, sovereignty over an extensive territory, and exerts a powerful and salutary influence over the neighbouring clans."

"The Society is reproached for agitating this question. It should be recollected that the existence of free people of colour is not limited to the states only which tolerate slavery. The evil extends itself to all the states, and some of those which do not allow of slavery, (their cities especially,) experience the evil in an extent even greater than it exists in the slave states. A common evil confers a

right to consider and apply a common remedy. Nor is it a valid objection that this remedy is partial in its operation, or distant in its efficacy. A patient, writhing under the tortures of excruciating disease, asks of his physician to cure him if he can, and, if he cannot, to mitigate his sufferings. But the remedy proposed, if generally adopted and perseveringly applied for a sufficient length of time, should it not entirely eradicate the disease, will enable the body politic to bear it without danger and without suffering.

"We are reproached with doing mischief by the agitation of this question. The Society goes into no household to disturb its domestic tranquillity; it addresses itself to no slaves to weaken their obligations of obedience. It seeks to affect no man's property. It neither has the power nor the will to affect the property of any one contrary to his consent. The execution of its scheme would augment, instead of diminishing the value of the property left behind. The Society, composed of free men, concerns itself only with the free. Collateral consequences we are not responsible for. It is not this Society which has produced the great moral revolution which the age exhibits. What would they, who thus reproach us, have done? If they would repress all tendencies towards liberty and ultimate emancipation, they must do more than put down the benevolent efforts of this Society. They must go back to the era of our liberty and independence, and muzzle the cannon which thunders its annual joyous return. They must revive the slave trade, with all its train of atrocities. They must suppress the workings of British philanthropy, seeking to meliorate the condition of the unfortunate West Indian slaves. They must arrest the career of South American deliverance from thralldom. They must blow out the moral lights around us, and extinguish that greatest torch of all which America presents to a benighted world, pointing the way to their rights, their liberties, and their happiness. And when they have achieved all these purposes, their work will be yet incomplete. They must penetrate the human soul, and eradicate the light of reason and the love of liberty. Then, and not till then, when universal darkness and despair prevail, can you perpetuate slavery, and repress all sympathies, and all humane and benevolent efforts among freemen, in behalf of the unhappy portion of our race who are doomed to bondage."

"In respect to the alleged incompetency of the scheme to accomplish its professed object, the Society asks that that object should be taken to be, not what the imaginations of its enemies represent it to be, but what it really proposes. They represent that the purpose of the Society is to export the whole African population of the United States, bond and free; and they pronounce this design to be unattainable. They declare that the means of the whole country are insufficient to effect the transportation to Africa of a mass of population approximating to two millions of souls. Agreed; but that is not what the Society contemplates. They have substituted their own notion for that of the Society. What is the true nature of the evil of the existence of a portion of the African race in our population? It is not that there are *some*, but that there are *so many* among us of a different caste, of a different physical, if not moral constitution, who never can amalgamate with the great body of our population. In every country, persons are to be found varying in their colour, origin, and character, from the native mass. But this anomaly creates no inquietude or apprehension, because the exotics, from the smallness of their number, are known to be utterly incapable of disturbing the general tranquillity. Here, on the contrary, the African part of our population bears so large a proportion to the residue, of European origin, as to create the most lively apprehension, especially in some quarters of the Union. Any project, therefore, by which, in a material degree, the dangerous element in the general mass, can be diminished or rendered stationary, deserves deliberate consideration."

In the justice of this defence we entirely concur. If the characters of the individuals who compose this society, which comprehends among its members some of the most distinguished

politicians of all parties, did not give assurance that they meditated nothing inconsistent with the interests of the country, we would ask what possible motive, men who were born and bred, and still live in slaveholding states, whose nearest friends are slaveholders, and who are owners of slaves themselves, could have for giving their time and money to do mischief to all that they hold dear? It is then impossible to doubt the *integrity* of their views, and the only question is as to their *sincerity*. If their motives have been misunderstood and misrepresented; if some who have mingled in the association, may be the advocates of a precipitate emancipation, (though we know not whether there be such,) nay, more, if here and there an ignorant negro, misconceiving the objects of the society, from the false representations of its enemies, should be more discontented with his condition, shall they be deterred from their praiseworthy purposes by these considerations? For every negro that they send out of the country, they confer a public benefit: whilst the mischief which has been imputed to them, is either imaginary or insignificant, and is to be imputed yet more to their opponents than themselves.

Lest it should be supposed that we have any personal motives in these remarks, we will here take occasion to say, that we are not, and never were members of any colonization society. But while we cheerfully give the tribute of praise to the motives of the society, and general tendency of its measures, as well as our thanks to the eloquent statesman who can raise himself above the smoke and dirt of party strife and ephemeral politics, to discuss this, the greatest of all the remote interests of our country, we must take occasion to dissent from some of his views.

In the first place, we are persuaded that he is mistaken in the comparative expense and difficulty of transporting colonists to Africa, and to the country beyond the Rocky Mountains. Taking his estimate of five tons for every two passengers from the United States to Africa, the cost of transportation must considerably exceed twenty dollars for each individual; and if there have been instances of their being conveyed at that rate, it has been owing to aids from individual liberality, or other circumstances, which cannot be permanently counted upon. We believe, that if a road were opened through one of the most practicable passes of that great chain which separates the waters of the Atlantic from those of the Pacific, and small stations were provided at convenient distances, the expense of travelling to a settlement on the Columbia river, would be much less than half the cost of a voyage across the Atlantic. Supposing the journey to require the same time as the voyage, the provisions which the colonists would consume, in the one case, would be at the lowest

price they bear in our country, while in the other, they would be at the highest.

But admitting that the expense of transportation to Africa would in general be the cheapest, yet it should be recollected, that one of the difficulties of any plan of colonization, arises from the blacks themselves; and it might happen, that many would be tempted to migrate on *terra firma*, who would be unwilling to encounter a voyage across the ocean, to a land which is at present more alien to their feelings and tastes, than that in which they have been brought up. The progress of the colony in Liberia, is an illustration of this preference; for with all the inducements which the removal to Africa holds out to their race, and all the aids which the Colonization Society has been able to afford them, thousands have transported themselves to Ohio, and other western states, in the same time that only five hundred have been conveyed to Africa.

We are aware that an objection has been also made to a colony on the Pacific coast, on the ground that it would plant a troublesome neighbour on our western frontier. But they would, as a state, be too feeble and insignificant, compared with the United States, to become formidable to us, though we might, and should be so to them. It is a yet more satisfactory answer to this objection, that the country lying east of the Rocky Mountains, the rivers of which all disembogue into the Atlantic ocean, or the Gulf of Mexico, is yet more completely separated from that which lies on the west of those mountains, whose waters empty into the Pacific, by their interests, than by the physical barrier between them. Remote as the two are by distance, separated as they are by high mountains and sandy deserts, and trading with opposite hemispheres, they would continue united only so long as the country on the Pacific was capable of maintaining its independence; and if they are to constitute a separate government, surely it is better for us, that a contiguous territory should be possessed by a feeble nation, such as the blacks would be, than by a people of the same character with ourselves. By setting this portion of our territory apart for the blacks whom we now have in the bosom of our country, we virtually appropriate it to our permanent use, in the only mode which is practicable, and in the most eligible mode, if any other were practicable. This country, in a word, must be occupied by a black or a white population: but for every black sent there, we increase our present and future strength; and for every white, we incur present loss and future inconvenience.

Let it not be supposed, that while we plead in favour of a colony on the Pacific, we would discourage colonization in Africa. It seems to us, that it is an error which has pervaded every meliorating scheme on the subject, that it has been regarded as ne-

ecessarily exclusive of every other. Now, we see no good reason why they may not all be put into operation together. Some persons may be inclined, or find it convenient, to favour one plan, and some another. Thus, the free negroes of Kentucky, Tennessee, or Missouri, might be more easily conveyed across the Rocky Mountains; while those living near the seacoast, may be less averse to colonize themselves in Africa. And others again, may be encouraged to settle in Hayti, where, although they no longer invite migration by a bounty, there is no doubt that settlers would be welcome. We think, that to make any considerable reduction of the black population, it will require all the resources of the country, and they must all be put into active operation.

We will here take occasion to notice some small errors in the political arithmetic of Mr. Clay, which are not unimportant in our speculations on this subject. He estimates the tenth part of the rate of increase in ten, as the rate of increase for one year: but he forgets, that as the increase of each term of ten years is greater than that of the term which preceded it, so also is that of each of the succeeding ten years, since the increase is in a compound ratio. An annual increase, therefore, of three per cent., which Mr. Clay supposes to be somewhat less than that of the slaves, will give an increase in ten years, not merely of 30 per cent., but of 34.39 per cent., and would produce a duplication in less than twenty-four years. But the increase of the slaves which has actually taken place from 1810 to 1820, of 28 per cent., and which we have argued is likely to continue with little diminution, so long as slave labour is profitable, gives an annual increase of but $2\frac{1}{2}$ per cent. in a year, and a duplication in about twenty-eight years. Assuming then their annual increase to be $2\frac{1}{2}$ per cent., the total amount of that annual increase of both descriptions of the African race, bond and free, is upwards of 59,000—that is 52,500 slaves, and 7000 free persons of colour; and if the annual increase was 3 per cent. for the slaves, and $2\frac{1}{2}$ per cent. for the free persons of colour, the total annual increase at this time would be, instead of 52,000, upwards of 70,000.

We agree with Mr. Clay, that the evil is not “that there are *some*, but that there are *so many* among us of a different caste;” and with him we should consider slavery as stript of all its perils, if not of all its odious and injurious character, provided we could send off, every year, a number of blacks equal to their natural increase. We also believe, that if all the resources of the country were put in requisition, and the blacks were sent indiscriminately to Africa, to the Pacific, or to Hayti, as their inclinations led and convenience recommended; it would be practicable to rid ourselves of this number—and we do not think that we could go much beyond it; supposing that it required thirty dollars on an

average, to transport an individual to the place of destination, and thirty more to make provision for him after his arrival, until he was able to provide for himself, the whole cost of conveying the 52,000, would be 3,120,000 dollars.

This sum, which is not much short of the joint revenues of all the states in the Union, could be furnished only by the general government; but if the Constitution present no impediment, the national treasury will soon, from its present prospects, be adequate to the contribution of even a much larger sum. Its present revenues are derived principally from duties which are laid on imported commodities, as much for the purpose of protecting some species of domestic industry, as of obtaining revenue. Such being the case, it is not probable, that when the public debt shall be paid off, these duties will be much reduced, the argument for *keeping on* the protection being yet stronger than it originally was for *imposing* it. If so, the surplus revenue, supposing our expenditures and foreign commerce to remain the same as at present, will be nearly ten millions; which sum may be expended either in naval and military armaments, roads and canals, or for the object we have mentioned. Now, as these duties operate for the encouragement of manufactures, which are established principally in the free states, it would seem but just to expend a part of them for the especial benefit of the slaveholding states, which would thus be compensated for the unequal operation of the tariff. Here then will be the *means*; and if the Constitution confers no *power* on Congress to make such an appropriation, it is for the people, the depository of all power, to confer it; such a measure, which, though beneficial to all, would be particularly advantageous to the southern states, would afford to the citizens of the free states, who profess their readiness to co-operate in the expense of emancipation and indemnity, a fair opportunity of proving their sincerity.

But in the mean time, until such a scheme can be adopted and matured, the course to be pursued by the friends of the blacks, which is at once the wisest and most just, is to moderate their zeal; and if it be too much to expect them to forbear discussing a subject which touches their sympathies and affects their interests, to discuss it in the tone and temper of friends; nor should they reproach the slaveholders with that which they honestly believe to be either no evil at all, or one which they had no agency in creating, and are not competent to remedy. If the abolitionists wish to give freedom to the slaves—if, in the mean time, they wish to soften the rigours of servitude, they must not let the blacks engross all their charity; for they may be assured, that nothing effectual can be safely done—nothing can be wisely done, but by the slaveholders themselves. And while we would not have them abstain from temperate discussions of the subject, for

fear of provoking that fretful impatience, the arrogance of which is equalled only by its folly, we would wish them to show that they are not actuated by a fanatical spirit, nor by that illiberal hostility which neighbouring states are so apt to feel towards each other; but that they are influenced by an enlightened regard to the solid interests of the country, yet more than by temporary and delusive sympathies.

Nor should they pass laws to prevent or discourage the introduction of free negroes among them, since manumissions must cease in the slaveholding states, if the persons emancipated are not allowed to migrate to other states. Indeed, in every aspect in which we can view the subject, we think that the evils of slavery are diminished by diffusion. By favouring partial emancipation, or rather by preventing its prohibition, the natural increase of the black population is somewhat lessened; and by lessening the proportion of blacks to whites, it makes that general emancipation, which must eventually take place in some states, more safe and practicable. This consideration, had there been no other, would have justified the vote of the slaveholding states on the Missouri question; and as nothing seems to us to have been more misunderstood on both sides of the Atlantic than that question, we will make a few remarks in vindication of the course pursued by the majority on that occasion. Besides the objection which the slaveholding states would naturally have to be reduced to the alternative of separating themselves from their slaves, or of being precluded from migrating to that extensive and fertile territory west of the Missouri—besides the jealousy which they must always feel, at seeing the general government, of which they constitute a minority, interfering with that species of property without their solicitation, it was a matter of vital interest that the slaves should have an opportunity of spreading themselves over our country equally with the whites; for, if they were confined to the limits of particular states, while the whites were left free to migrate, as they might be urged by the pressure of population, and the tempting fertility and cheapness of the lands in the new states, the proportion of the black population to the white must be continually augmenting. Whenever, by the increase of population, the price of labour, compared with the price of the necessaries of life, should be so reduced as to make slaves unproductive as property, we have seen that they would no longer be retained in bondage; but until that period arrived, their increase would be, as it now is, nearly at its maximum; their numbers would of course be the same, whether they be spread over the whole western country, or be confined to the present slaveholding states; and the only effect of the pressure of population, would be to urge the migration of the whites to those new states where fresh lands were more easily obtained.

Although it is impossible to estimate the effect of this change of proportion in any given period, it is easy to see, that, as it would continue to increase, until the whole of our unsettled territory presented no extraordinary inducements to the inhabitants of the slaveholding states to migrate, the time must come when it would be most perilous to the whites, whether the blacks were emancipated or retained in slavery. In the course of a century, or a little more, the slaves of the slaveholding states, exclusive of Missouri, will have increased to 24 millions; and estimating their extent at 424,000 square miles, the population will be less than sixty to a square mile. Supposing the whole population of the United States to double four times in the same period, (which is oftener than it probably will,) it will then amount to about 180 millions; which will give an average, throughout our whole territory, of less than seventy to a square mile. If we also suppose that the aggregate population of the slaveholding states will be equal to this average, but more dense than some of the free states, and less dense than others, then, as of the seventy persons to a square mile, sixty would be black, there would be the fearful disproportion of six to one. If we reckon the population of the slaveholding states to exceed the average, and to be equal to eighty persons to the square mile, then the proportion of blacks to whites would be as three to one. When we recollect how rapidly our population diffuses itself over the western territory, and how slowly Virginia increases, in consequence of the emigration of her citizens to states where land is cheaper, it seems highly probable, that the density of the population in the slaveholding states will be less, rather than exceed the average of the whole United States; in which case, the disproportion would be yet greater than we have supposed.

Nor can it be believed that the whites, having their eyes open to the obvious danger of this disproportion, would refuse to submit to it. What would they do?—what could they do? What remedy could they apply, which would not seem worse than the evil. The apprehension of the danger, if it had any effect at all, would tend to quicken rather than to check emigration. But the truth is, if they had any practicable means of retarding the increase of the black population, they would not be disposed to exert them against their immediate pecuniary interests; and so long as they could make slave labour productive, they would regard the disproportion of blacks with the same indifference as has been manifested by the planters of the West Indies. Men will ever act as they have done. They will be regardless of remote and contingent danger, in pursuit of present interest; and in the same way as people build and plant in the sight of a volcano, and perhaps on the very lava which has buried their ancestors in ruins—or capitalists are found to purchase sugar estates

in Jamaica, where there are fifteen blacks to one white, with the horrors of the St. Domingo insurrection fresh in their minds—so would the planter of cotton, and sugar, and tobacco, encounter the risk of the same disproportion. But the energetic resistance of the southern states, and the conciliatory spirit of some of their northern brethren, saved them from this perilous, this cruel result; and we, the friends of emancipation, rejoice at it as much as the English reviewers affect to condemn or regret it.

On this occasion, we have been condemned by those who have misunderstood our motives, and could not appreciate our difficulties. Indeed, on the subject of domestic slavery, our national character has been most unjustly assailed; for our censors have been at once superficial and illiberal. Our conduct in relation to it must gain on a comparison with that of any other nation. We abolished the slave trade, the very first moment we were permitted to do so by the Constitution, which tolerated it for a time, by way of compromise with a small minority. Many of the states sought to abolish it when they were colonies, but could not obtain the sanction of Great Britain, because the trade was advantageous to her commercial and shipping interests. Some of them, since the Revolution, have abolished slavery itself, where it was practicable; and more might have done so, if the number of their slaves had not been increased, by the before-mentioned importations of Great Britain, against their wishes. Most of the slaveholding states discourage or prohibit the further importation of slaves from the other states, although they have large tracts of unsettled lands, which can at present be cultivated only by slaves. What, we would ask, have other nations done?—what efforts have they made?—what sacrifices have they endured, equal to these? France and Spain still either permit the slave trade with their colonies, or openly carry it on. Great Britain has indeed prohibited this traffic to her subjects; but she was able to effect its abolition only after a struggle of eighteen years, during which period sheer pecuniary interests overcame every consideration of humanity and national character, enforced as they were by the ablest men in the nation, of all parties. Yet they who found so much difficulty in putting a stop to the further importation of slaves, reproach us, forsooth, for not putting a stop to slavery itself; and they require our slaveholders to part with their capital, with yet more readiness than they consented to transfer theirs from one business to another. Our argument, too, against emancipation, is not that it is contrary to our interest, but that it is inconsistent with our safety; but they openly defended the slave trade, upon the ground that its abolition would injure their commercial interests. “Would you,” said General Gascoigne, in the British Parliament, “put an end to a traffic which has raised Liverpool from 2000 to 95,000 inhabitants? I

do believe it would be the ruin of them." We withhold freedom from those who were bred and born slaves, whilst they aided and encouraged others in making those slaves who were born free. Their plea was commercial profit—ours is self-preservation. Theirs was a graver offence; persevered in with less inducement to continue it, and when smaller sacrifices were required to forego it: yet, having at length taken better counsel, and abolished the African trade, they now speak of the existence of slavery in the United States, as if a single branch of commerce, which owed its profits to its peculiar odiousness, could be compared with the great considerations of national tranquillity and safety.

But we must bring our remarks to a close. We have done little more than throw out hints on this subject, which is as copious as it is important, for the consideration of those who by their talents or station guide our public councils. We, above all, wish to excite the attention of the slaveholding states, who are most immediately concerned, and who alone have the right, the power, and the capacity, to apply a remedy. And when conventions are got up for no higher object than to give a further protection to some languishing branch of industry—or to determine whether this or that individual shall have the right of bestowing a few hundred offices, (for the most of our party bickerings, when traced to their source, amount to no more,)—we would hope that somewhat of the same ardour and concert could be shown, in a matter which so deeply affects the present and future wealth, strength, and character of the whole republic.

ART. XII.—*Documents from the Department of State, relative to the Colonial Trade.* City of Washington: December, 1826.

It is admitted as a general principle, by the most approved writers upon the laws of nature and nations, that man is formed for society; and that from this propensity of his nature, a moral obligation results, imposing upon every individual the duty of contributing, so far as may be compatible with his own well-being, to that of the portion of his fellow-creatures with whom he is united in society. This obligation has the sanction of the Divine Creator, in that precept of the law given from Sinai—"Thou shalt love thy neighbour as thyself." Human society, therefore, is a condition of reciprocal good offices and beneficence; and the duties of individuals become alike incumbent upon nations. There are numberless varieties in the modes by

which individuals may contribute to the comforts and enjoyments of one another; but the easiest and most common way by which nations perform the interchange of good offices, is by holding commercial intercourse together.

This is accordingly included by theoretic and practical writers as an obligation incumbent upon nations; and Vattel, in his chapter upon the mutual commerce of nations, (book 2. chap. 2. p. 132.) after enumerating the causes upon which this principle is founded, adds, "Such are the foundations of the general obligation incumbent on nations, reciprocally to cultivate commerce."

These foundations, as enumerated, are—1. The right of property; 2. The mutual benefit of exchanges; and 3. The variety of productions suited to the wants of men, in different regions. "It is seldom," says he, "that nature is seen in one place to produce every thing man stands in need of: one country abounds in corn, another in pastures and cattle, a third in timber and metals. All these countries trading together, *agreeably to human nature*, no one will be without such things as are useful and necessary, and the views of nature, our common mother, will be fulfilled. Farther, one country is fitter for some kinds of products than another; as for vineyards, more than tillage. If trade and barter take place, every nation, on the certainty of procuring what it wants, will employ its industry and its ground in the most advantageous manner; and mankind in general proves a gainer by it."

He proceeds to say, that freedom being useful to commerce, it is implied in the duties of nations, that, instead of unnecessary burdens and restrictions, they should support it as far as possible; and that every nation, in virtue of its natural liberty, has a right to trade with those which shall be willing to correspond with such intentions; and to molest it in the exercise of its right, is an injury. He brands with strong reprobation the attempt of the Portuguese, at the time of their great power in the East Indies, to exclude all other European nations from any commerce with the Indians—qualifies it as a pretension no less iniquitous than chimerical—that it was mere matter for derision; and that the nations agreed to consider any acts of violence in support of it as just causes of a war. This common right of all nations, he says, is at present generally acknowledged, under the appellation of *Freedom of Trade*.

But this attempt of the Portuguese, iniquitous and absurd as it was, followed as a legitimate corollary from the colonial system of the age. Spain, England, France, and the Netherlands, as well as Portugal, sent forth adventurous navigators to discover, and enterprising adventurers to take possession of, all parts of the earth not inhabited by Christians. Wherever one of these navigators first landed, he assumed the right of property to the spot,

and indefinitely to all the region round ; and to secure this title by all the laws, human and divine, then recognised, produced the Bull from the Pope, the vicegerent of God upon earth, and the charter from the temporal sovereign of the adventurer ; and thenceforward considered the whole region as the exclusive property of the discoverer and of his feudal lord. Thus Spain and Portugal both, after obtaining from Pope Alexander VI. the Bull which divided the western world between them, assumed each exclusive property of their respective portions of the grant, and prohibited, upon pain of death, the intrusion of any foreigner upon their domains. Shortly after this, however, England abjured the authority, spiritual and temporal, of the Bishop of Rome ; and another century elapsed before she began to plant colonies in the western hemisphere. In the mean time, the exclusive and excluding system of colonial domination had been established and maintained by the Roman Catholic colonizing nations ; and England adopted it, by interdicting the access of other nations to her settlements, for the purposes, peculiar to herself, of colonial monopoly.

It was this spirit which gave rise to the first Navigation Act of England, enacted by the Long Parliament, introduced by St. John, one of the Puritan republicans of that time. It was undoubtedly an outrage upon the natural rights of mankind, and upon the freedom of trade : but the tendency of all discussion, during that age, of the natural rights of men, was confined to those modes of liberty which bear upon the internal organization of government. The doctrine of human rights was limited to the relations between sovereign and subject—both of the same nation. The collision was between the authority of the crown, and the franchise of the people. As between nation and nation, the spirit of the age was indeed opening inquiries into the rights of social man : but it was not in England. Grotius was erecting the first monument of homage to the Rights of War and Peace, precisely at the time when the Long Parliament was stripping the King of all his powers, and establishing a republic in the place of their ancient monarchy ; and that was precisely the time when Selden was claiming for England the Dominion of the Sea, in controversy with Grotius, who asserted the freedom of that element ; and St. John was laying the foundation of the English Navigation Acts, in revenge against the Dutch, and against the English colonies which favoured the cause of the Stuarts. The royal gratitude of that family was manifested by the adoption and re-enactment, in the very year of the restoration of Charles II., of the Navigation Act of St. John ; and so successful has it proved to fix the yoke of England upon the navigation of the world, that its ultimate overthrow has not even yet been accomplished, and will be effected only as a remote consequence of the

principles proclaimed by the Declaration of North American Independence.

The Navigation Act was soon found to be an effective expedient for carrying into execution the system of colonial monopoly. They were both enormous encroachments upon the natural rights of mankind, and in the highest degree injurious to those upon whom they were made to operate.

In the Laws by which nations regulate their commercial intercourse with one another, each nation, to a certain extent, assumes and exercises a power of legislation, not only over herself, but over the other party. But if one of the parties permits the other to exercise exclusively the right of legislation over this common concern, the whole intercourse will be regulated exclusively with reference to the interest of the party *making the laws*, till her statesmen will come to the pretension that she is granting *a boon* to the other party, by admitting her to any portion of the trade whatever. Such is the doctrine of colonial monopoly; and such is the theory of the English Navigation Acts.

But in what does it result? The Declaration of North American Independence, is the first great answer to this question. The Stamp Act and the tea tax were but modifications a little more oppressive, of the odious law of colonial monopoly. They were not more subversive of the natural rights of mankind. They precipitated, but did not originate the Revolution. That was already provoked, and in a very few years more would have been consummated by the Acts of Trade, and the Navigation Act. These were the primary causes of the Revolution.

Such are the natural fruits of colonial monopoly and Navigation Acts. By infringing upon the freedom of commerce, which is one of the primitive rights of man, they stimulate to resistance; and by exercising the power of legislation over other nations, they stimulate to retaliation, and thereby kindle war.

That the object of the English nation, in all these laws, from the time of the Long Parliament down to the time of Mr Huskisson's new and liberal system, has been to legislate and to control for *other* nations, has been recently acknowledged, in its freest manner, in Parliament, by Mr. Huskisson himself.

"Our Navigation Laws," (said that minister in his speech to the House of Commons, on the 12th of May 1826,) "have a twofold object. First to create and maintain in this country a great commercial marine; and secondly, (an object not less important in the eyes of statesmen,) to prevent any one other nation from engrossing too large a portion of the navigation of the rest of the world.

"It is the broad principle upon which the navigation system of this country was founded; and it is obvious, that the motives for adopting that system were, first, that such portion of the carrying trade of foreign countries, as does not devolve to British shipping, should be divided as equally as possible amongst the other maritime states, and not engrossed by any one of them in particular; and

secondly, that countries entertaining relations of commerce with this country, and not possessing shipping of their own, should export their produce to England in British ships only, instead of employing the vessels of any third power."

Such is then the avowed system of the Navigation Laws of Great Britain. We have seen that one of its natural and inevitable consequences was the Declaration of Independence, by thirteen of her North American colonies, maintained and established by a desolating war of seven years. This terminated by the formal acknowledgment of that Independence, by a treaty of peace, on the 30th of November 1782.

The independence of the United States still left Great Britain in possession of two or three colonies at the northern extremity of this continent, and of several islands in the West Indies; and it immediately became an interesting question, upon what footing the commercial intercourse between the United States and those colonies should be established.

Between the shores of the United States and the islands of the West Indies, the natural elements of an extensive and mutually beneficial commerce had been in full operation, before the Revolution, and while both countries were under the dominion of the same sovereign. The amount of exports from the colonies now forming part of the United States, for the years 1771, 1772, and 1773, had been of the annual value of about three millions of dollars; for two millions of which they received in return molasses and rum; articles of which there was little or no consumption in England; and for which ours was the only market open to the West India planters. The balance of the trade, about one million of dollars a year, was paid in specie. But the articles given for it, were necessities of life—bread, salted provisions, fish, lumber, boards and shingles, hoops and staves, horses, oxen, hogs, and poultry. Of these articles, most of them necessary to the sustenance of life, or not less indispensable for the package of the exports from the West Indies themselves, the continent of North America seemed purposely formed by nature to furnish to the islands the supply. The islands could not supply themselves. The soil and the toil bestowed on the culture of sugar and coffee, would have been unprofitably wasted in the cultivation of grass or of grain—of hoops or staves. They could not be supplied, at least but with far heavier charges, from the mother country; and with no other were they permitted to trade. The voyage was three times as long; the charges, the freight, the insurance, were proportionally aggravated. Great Britain could not produce the lumber, which was an article of import even to herself. In the length of the voyage, grain and flour were liable to suffer, and often did suffer damage; and last of all, Great Britain could take in payment only the choicest productions of the colony—the coffee

and the sugar, leaving to perish upon the hands of the planter, all his molasses, and almost all his rum.

It was immediately after the conclusion of the preliminary articles of peace, in November 1782, that these considerations appear to have had, in England, all the influence to which they were justly entitled. The Earl of Shelburne, the minister who had made the peace, was a man of enlarged views and of liberal principles. William Pitt, in the dawn of manhood, and the meridian of intelligence, before the ingenuous candour of youth had been adulterated by the sordid passions of vindictive refugees, and the selfish interests of the ship-builders, was then only Chancellor of the Exchequer. In that character, in March 1783, he introduced into the House of Commons a bill for the regulation of trade and intercourse between the people of Great Britain and of the United States, which, had it then been adopted, would have laid a broad foundation for perpetual peace and harmony between the two countries.

This bill, after declaring in the preamble that the thirteen United States of North America had lately been solemnly acknowledged by the King to be free, sovereign, and independent states, proceeded first to repeal all the statutes of regulation, or prohibition of intercourse, which had been theretofore enacted. It then recited, that the ships and vessels of the people of the United States had, while they were British subjects, been admitted into the ports of Great Britain, with all the privileges and advantages of British built ships: that by the then existing commercial regulations of Great Britain, foreigners, as aliens, were liable to various commercial restrictions, duties, and customs, at the ports of Great Britain, which had not been applicable to the inhabitants of the United States.

The following is then the remarkable language of the bill:—

"And whereas it is highly expedient, that the intercourse between Great Britain and the said United States should be established on the most enlarged principles of reciprocal benefit to both countries, but from the distance between Great Britain and America, it must be a considerable time before any convention or treaty for establishing and regulating the trade and intercourse between Great Britain and the said United States of America, upon a permanent foundation, can be concluded—

"Now, for the purpose of making a temporary regulation of the commerce and intercourse between Great Britain and the said United States of America, and in order to evince a disposition of Great Britain to be on terms of the most perfect amity with the said United States of America, and in confidence of a like friendly disposition on the part of the said United States towards Great Britain, be it further enacted, that from and after the the ships and vessels of the subjects and citizens of the said United States of America, with the merchandises and goods on board the same, shall be admitted into all the ports of Great Britain, in the same manner as the ships and vessels of the subjects of other independent sovereign states; but the merchandises and goods on board such ships or vessels of the subjects or citizens of the said United States, being of the growth, produce, or manufacture of the said United States, shall be liable to the same duties and charges only, as the same merchandises and goods would be

subject to, if they were the property of British subjects, and imported in British built ships or vessels, navigated by British natural born subjects."

Thus far, the regulation applied only to the commercial intercourse between the United States and the island of Great Britain. It was the same which, after a lapse of more than thirty years, was established by the convention of 1815, and is yet in force.

The intercourse with the colonies was to be settled on principles equally liberal.—

"And be it further enacted, that during the time aforesaid, the ships and vessels of the subjects and citizens of the said United States, shall be admitted into the ports of his majesty's islands, colonies, or plantations in America, with any merchandises or goods, of the growth, produce, or manufacture, of the territories of the aforesaid United States, with liberty to export from his said majesty's islands, colonies, or plantations in America, to the said territories of the said United States, any merchandises or goods whatsoever; and such merchandises and goods, which shall be so imported into, or exported from the said British islands, colonies, or plantations in America, shall be liable to the same duties and charges only, as the same merchandises and goods would be subject to, if they were the property of British natural born subjects, and imported or exported in British built ships or vessels, navigated by British seamen.

"And be it further enacted, that during all the time herein before limited, there shall be the same drawbacks, exemptions, and bounties, on merchandises and goods exported from Great Britain into the territories of the said United States of America, as are allowed in the case of exportation to the islands, plantations, or colonies, now remaining, or belonging to the crown of Great Britain, in America."

By the last section of the bill, the benefit of the Act was extended to all such ships or vessels of the United States, as had arrived in the ports of Great Britain since the conclusion of the peace.

In the long and eventful life of William Pitt, and in the plenitude of his power, he never accomplished, nay, he never devised a measure more strongly marked with the stamp of liberal principle and of profound wisdom, than the draught of this bill. It was precisely the footing upon which the dictates of commercial freedom, and the best interests both of the United States and Great Britain, required that the subject should be placed. After the lapse of nearly half a century, this bill presents an entire system of commercial intercourse between the United States and Great Britain, which, while promoting the highest prosperity of both, could not fail to be acceptable in all its consequences to both. If adopted at that time, it would perhaps have superseded, it would at all events have delayed, the necessity which impelled the people of the United States to form the present Constitution of the United States. At this time, if Mr. Canning and Mr. Huskisson, instead of making long speeches of liberal principle, and enacting laws of severe restriction, would barely copy, by Act of Parliament or by Convention, word for word, the provisions of this bill of Mr. Pitt, never more should we hear a syllable of complaint on the part of the United States. It is founded entire-

ly upon that principle of equal and honest reciprocity, which we have always claimed as the foundation of our commercial intercourse with other nations, and gives it a practical extent, even greater than we had consented to accept.

But the Earl of Shelburne was the minister who had concluded the peace, and Mr. Pitt was a prominent member of his administration. The fragments of the two great parties, which had brought the British nation to the brink of ruin; the party which had carried on a seven years' war to subjugate the colonies, and the party which had been seven years denouncing them to the world as fit only to atone for their incapacity or corruption on the scaffold; those parties united upon this occasion to pull down the administration which had saved the remaining honour and resources of the nation. A vote of censure upon the peace was passed by the House of Commons: Lord Shelburne and Mr. Pitt resigned their offices, and a ministry succeeded, formed by the coalition of Lord North and of Charles Fox, which, short-lived as it was, lasted long enough to demolish the whole system of friendly intercourse with America, which Mr. Pitt's bill was about to introduce, and substituted in its place the arbitrary will of the Crown. The whole regulation of the intercourse was committed to the discretion of the King in council.

One of the first fruits of this Act was an Order in Council, restricting the trade between the United States and the British colonies to a very small number of articles, and to be carried exclusively in British ships. This Order was dated the 2d of July 1783, and it was continued, by annual Acts of Parliament and Orders in Council, till February 1788, when the prohibition was established by a permanent statute, which took effect from the 2d of April of that year.

In the interval of that time, it appears, by a representation from the Legislative Assembly of Jamaica to the British Parliament, not less than fifteen thousand negroes perished in that island alone with famine. In that interval, more than once were the governors of the islands compelled to open them for several months together, to the provisions of the United States, and in their vessels.

At the first enactment of these prohibitions, a natural apprehension had been felt, that the United States would adopt retaliatory measures on their part. But Congress did not possess the power; and the spirit of selfishness prevailing among the several states, only four of them—New-Hampshire, Massachusetts, Pennsylvania, and Virginia—passed discriminating laws, and this without concert. Massachusetts, by an Act of her legislature of 23d June 1785, prohibited the exportation from any port or harbour of the commonwealth, of any goods, wares, or merchandise, the growth, manufacture, or produce, of any of the

United States, in British ships, on pain of forfeiting the vessel and cargo. This measure, however, proved nugatory as an expedient of retaliation upon the British interdict, because it was not seconded by more of the other states; and the legislature of Massachusetts found themselves compelled, the ensuing year, to repeal it. Perceiving its inefficacy, the merchants of Boston, with John Hancock at their head, addressed a petition to Congress, from which the following is an extract:—

“Your petitioners observe, that the ships and commodities of that nation, whose insidious conduct has long been the object of our peculiar jealousy, are received in our ports under the same advantages with our own, while our navigation, in return, is discouraged by every possible embarrassment; and our exports, on their part, are either prohibited, or if admitted to their ports, are loaded with the most rigorous exactions. In proof of our assertions, we need but point the attention of Congress to the enormous duty on our rice, oil, and tobacco: to the principle and spirit of their navigation laws, or to a bill lately agitated in the British Parliament, which now, most probably, has the sanction of a law, for the support and encouragement of their American fishery, to the direct prejudice of ours, and is intended to derive that benefit from these states, which, in our apprehension, and on their principles, ought only to be permitted in our own bottoms. Impressed with these ideas, your petitioners beg leave to request of the very august body which they now have the honour to address, that the numerous impositions of the British on the trade and exports of these states, may be forthwith contravened by similar expedients on our part; else, may it please your excellency and honours, the commerce of this country, and of consequence its wealth, power, and perhaps the Union itself, may become victims to the artifice of a nation, whose arms have been in vain exerted to accomplish the ruin of America.”

About the same time, the legislature of Pennsylvania, upon a memorial from the committee of the merchants and traders of the city of Philadelphia, passed the two following resolutions:—

“Resolved, that it is the opinion of this house, that the privilege, in the degree hitherto retained by the states individually, of controlling and regulating their own trade, is no longer compatible with the general interest and welfare of the United States; reason and experience clearly evincing, that such privilege is productive of mutual inconveniences and injuries among ourselves, and that the systems of several nations, by which our merchants are excluded from the most beneficial branches of commerce, whilst the whole of ours is laid open to them, cannot be consistently or effectually counteracted, but by a unity of councils in the great representative body of the United States.

“Resolved, therefore, that Congress be requested to devise such a system of commercial powers, as they ought necessarily to be invested with, to be recommended to the states: and that Congress be assured of finding the most suitable disposition on the part of Pennsylvania to comply therewith.”

Other evidence, to the same effect, might be multiplied; but this may suffice to show, that among the people of the United States of that day, there was as little disposition to receive, as a boon from Great Britain, the participation in the trade of her colonies, as there was on her part to share it on principles of liberal reciprocity, as had been projected by the bill of Mr. Pitt.

From these extracts, it is likewise conclusively evident, that the only cause of the delay on the part of the United States, to meet the British prohibitions with retaliation, was their defective

organization, by the want of power in Congress; and that this was one of the principal causes which led to the Convention of 1787, and to the Constitution of the United States.

In the speech of Mr. Huskisson to the House of Commons, to which we have already adverted, it is in the most explicit terms and repeatedly admitted, that the Navigation Laws and the colonial monopoly were the main, primary causes of the American Revolution. His language to this point is equally strong and just.

"If the proceedings of the government of this country, after the peace of 1763, be closely examined, we shall find that many of the causes which, ten years afterwards, led to the unfortunate rupture with our then colonies, now the United States of America, may be traced to our unreasonable attempts to enforce, in its most rigid and exclusive application, our colonial and navigation system."

And again—

"It is generally believed, that the attempt to tax our American colonies without their consent, was the sole cause of the separation of those colonies from the mother country. But if the whole history of the period between the year 1763 and the year 1773, be attentively examined, it will, I think, be abundantly evident, that, however the attempt at taxation may have contributed somewhat to hasten the explosion, the train had been long laid, in the severe and exasperating efforts of this country to enforce, with inopportune and increasing rigour, the strictest and most annoying regulations of our colonial and navigation code."

But, well-informed as Mr. Huskisson appears to be of the real history and causes of events at this stage of the relations between Great Britain and America, it is surprising that he should be so ill-informed, or so signally misrepresent the state of things between them, which ensued immediately after the acknowledgment of the independence of the United States by Great Britain, in the peace of 1782.

"That peace," he says, "gave the first great blow to the navigation system of Great Britain." And he adds, that "after this peace, and before the establishment of the present Constitution of the United States, each of the different states then composing the Union, was at liberty to act independently of the others, in matters relating to its trade with foreign countries. Accordingly, almost every state established a different rule of commercial intercourse with Great Britain. The general character, however, of their legislation, was conceived in a spirit of peculiar hostility (not unnatural, perhaps, so soon after the exasperation excited by civil discord) against trade with Great Britain. In some of those states, indeed, British merchants were prohibited from trading with them altogether: in others, heavier duties were specifically imposed upon British merchandise; and in all, a desire was manifested to give a decided preference to the goods of other countries."

Now, this part of Mr. Huskisson's narrative is truly surprising, and in almost every particular incorrect. It is indeed true, that in the interval between the peace of November 1782 and the establishment of the Federal Constitution, the commercial concerns of the several states were regulated by their respective legislatures. But that the general spirit of their legislation was hostile to trade with Great Britain, is directly contrary to the

fact : in no one of the states, were British merchants prohibited from trading with them altogether; nor is it believed, that in any one of the states, heavier duties were imposed upon British merchandise, than upon the same articles produced in other countries. The discriminating laws of the four states above mentioned, and particularly the Massachusetts Navigation Act, were the only measures in any degree approaching to the character which Mr. Huskisson assigns to the whole commercial legislation of the states; and those were not owing to the exasperation excited by civil discord—they were mere intended countervailing regulations to the Order of the British Council, of 2d July 1783, issued under the discretionary power given by the Act of Parliament, 23 Geo. 3. ch. 1. to the King. Of that Order in Council, interdicting all trade between the United States and the British West India colonies, except in British vessels, Mr. Huskisson has taken no more notice than if it had never existed. As totally has he overlooked the fair and liberal bill, which had been previously introduced into the House of Commons by Mr. Pitt.

For the purposes of Mr. Huskisson's argument, these facts were as precious as any that he had adduced. It was the same unreasonable attempt to enforce the colonial and navigation system, which he had just so pointedly reprobated in its pernicious activity before the war, which, like the head of the Hydra, had shot forth again after the conclusion of the peace.

The application of this colonial and navigation system to the intercourse between the United States and the West India islands, after the independence of the former, was even more unreasonable and more unjust than it had been before. While both the parties to the trade had been colonies of the same sovereign, his right to regulate was equal over both; but when the government of Great Britain ordained that the trade between the United States and the British colonies should be carried on exclusively in British vessels, they undertook to give law, not only to their own colonies, but to the United States. There is not only something of rapaciousness in this effort to grasp at *all* the profits of a trade founded upon mutual wants and comforts, but there is something offensive and revolting in the *pretension* which it discloses: it strikes at once at the interest and at the pride of the other party. That this measure should have excited hostile feelings in the United States, and should have stimulated efforts at retaliation, is not only natural, but could not have been otherwise; and it is little creditable to the candour of Mr. Huskisson, that, while alleging a general spirit of hostility to British trade, as having pervaded all the legislation of the United States at that period, he has resorted to apocryphal facts to sustain the charge, and has totally suppressed the interdict of the trade in American

vessels, which had given the provocation to that hostile feeling, so far as it was entertained, which Mr. Huskisson gratuitously attributes to the resentments of the preceding war.

The operation of this colonial monopoly, when applied to the commercial intercourse between the United States and the West India islands, had in it another ungracious feature, which did not originally belong to it. When the colonizing powers of Europe had reserved each to herself the exclusive trade with her own colonies, it was at least founded upon some pretence of equivalents. The trade interdicted to the colony was a trade with other European nations—nations with whom the elements of mutually advantageous commerce were not more abundant than with the mother country. But now, the monopoly was of exports which the mother country would not take, and of imports which she could not supply. It was a monopoly, injurious and oppressive to both the parties between whom the trade was carried, for the benefit of a third; and that third, the law-giving party. The Parliament of Great Britain, by this new modification of monopoly, effectively and heavily taxed the merchants of the United States, and the planters of the British West India islands, for the benefit of British shipbuilders and seamen. There is not upon the records of human legislation, an example more clearly marked with the violation of the laws of nature, and of the maxims of equal justice.

In the charge against the United States, of hostility to trade with England, Mr. Huskisson overlooks also the fact, that from 1785 to 1788, the United States had a minister plenipotentiary residing at London, commissioned and authorized to negotiate a treaty of commerce, upon terms of fair and equal reciprocity;—that, during all this time, the British government not only declined treating upon commerce, but did not even return the compliment of sending a minister to the United States. The pamphlets of Lord Sheffield, upon the commerce of Great Britain with the United States at that period, all-prevailing as they then were in fixing the policy of Great Britain towards America, are now consigned by Mr. Huskisson to the same oblivion with the liberal but abortive bill of Mr. Pitt. It was not convenient to remember them.

“This state of things,” says Mr. Huskisson, “continued until the year 1787, when the General Congress met, and one uniform system of commercial policy was laid down. By that system, a heavy blow was aimed at the navigation of this country, (England.) It was resolved, that all foreign ships trading to America, should pay half a dollar, which was afterwards raised to a dollar per ton duty, beyond what was paid by national ships; and further, that goods imported in foreign vessels should pay a duty of ten per cent. over and above what was demandable on the same description of goods imported in American vessels.”

It was not until the year 1789, that the General Congress met, under the present constitution of the United States. This ana-

chronism of two years in the statement of Mr. Huskisson, is not without importance, in the consideration of this subject. In the year 1787, the minister plenipotentiary of the United States in England was yet residing in England; the prospect of a commercial treaty was not absolutely desperate; the Act of Parliament for regulating the commerce with the United States was yet temporary, and the power of making the regulation was still discretionary in the crown. In 1789, this was not the case: the interdict upon all trade between the United States and the British West India colonies, was established as permanent by Act of Parliament, in 1788; and that same year, the minister from the United States returned to his country.

It is true, that under those circumstances, and with feelings stimulated by this course of conduct on the part of Great Britain, the very first Acts of Congress, after their new organization, established discriminating duties of tonnage and of impost, chiefly with a view to counteract the navigation system of that nation. The proposal of these discriminations was made by Mr. Madison, and in his speeches on the first impost and tonnage laws enacted by Congress, he dwells with great earnestness upon the expediency of teaching those nations which had declined commercial treaties with the United States, and particularly Great Britain, to respect them. There could, indeed, be no more instructive lesson to an American statesman, at this day, than to compare those speeches of Mr. Madison, made upon the passage of those Acts, with the admissions now made by Mr. Huskisson, in testimonial to their effects. Throughout those speeches, Mr. Madison explicitly and repeatedly declares his predilections for the freedom of commerce. Throughout, he gives utterance to his indignant feelings at the hostile and contemptuous policy of Great Britain towards this country, and avows his own disposition to meet interdict with interdict, "until we should be allowed to carry to the West India islands, in our own vessels, the produce of America, which necessity compels them to take." And he adds:—

"We have now the power to avail ourselves of our natural superiority, and I am for beginning with some manifestation of that ability, that foreign nations may be taught to pay us that respect which they have neglected on account of our former imbecility. This language, and these sentiments, are the language and sentiments of our constituents: the great political revolution now brought about by the organization of the new government, has its foundation in these sentiments. Sensible of the selfish policy which actuated a nation long disposed to do all she could to discourage our commercial operations, the states singly attempted to counteract her nefarious schemes; but finding their separate exertions ineffectual, with a united voice they called for a new arrangement, constituted to concentrate, conduct, and point their powers, so as to obtain that reciprocity which justice demands. The arrangement has taken place; and though gentlemen may contend that we are not at this moment prepared to use it in the latitude I could wish; yet let them concur in doing what shall indicate, that on

a proper occasion we dare exert ourselves in defeating any measure which commercial policy shall offer, hostile to the welfare of America."

The first Act of Congress establishing a discriminating duty of imposts, received the signature of President Washington, on the 4th of July 1789; that for levying the tonnage duty, on the 20th of the same month.

That these Acts did, in an eminent degree, accomplish the purposes for which they were intended, was seen by the rapid increase of our shipping; by the general prosperity of our commerce, which immediately ensued. It is now acknowledged by the unequivocal testimony of our adversary. Mr. Huskisson sets forth at large the deep alarm and the numerous abortive projects of counteraction and retaliation, successively projected and abandoned by the British government. He explicitly admits, that after a long struggle to counteract the navigation system of America, without in any degree relaxing her own, Great Britain *found it necessary*, (these are his own words,) to adopt the system of reciprocity, on which, since the year 1815, the commercial intercourse between the two countries has been placed. But this applies only to the commerce between the United States and the British dominions in Europe, and only to merchandise, the growth, produce, or manufacture of the country to which the vessel, in which they are shipped, belongs. This is, indeed, a very scanty and inadequate reciprocity; but it was, until very lately, all that Great Britain found it necessary to adopt. But while she chose to adhere inflexibly to her navigation laws, the United States have, at all times, been willing and desirous to agree upon a fair reciprocity, as the principle of their commercial intercourse with *all* the British dominions.

Within three months after the passage of these discriminating impost and tonnage duties, President Washington, even before the appointment of a secretary of state, authorized Gouverneur Morris, then in Europe, to hold informal conferences with the British ministry, for the purpose of ascertaining, among other points interesting to the United States, "particularly, whether they were disposed to enter into arrangements, by mutual consent, which might fix the commerce between the two nations *on principles of reciprocal advantage*."

In the letter which was to serve Mr. Morris as a credential, the President said:—

"It being important to both countries, that the treaty of peace between Great Britain and the United States should be observed and performed with perfect and mutual good faith, and that *a treaty of commerce should be concluded by them on principles of reciprocal advantage to both*, I wish to be ascertained of the sentiments and intentions of the court of London on these interesting subjects. . . . It is my wish to promote harmony and mutual satisfaction between the two countries; and it would give me great pleasure to find that the result of your agency in the business now committed to you, will conduce to that end."

In the letter of instructions of the same date, (13th of October 1789,) the following direction was given:—

“Request to be informed, therefore, whether they contemplate a treaty of commerce with the United States, and on what principles or terms in general. In treating this subject, let it be strongly impressed on your mind, that *the privilege* of carrying our productions in our vessels, to their islands, and bringing in return the productions of those islands to our own ports and markets, is regarded here, as of the highest importance; *and you will be careful not to countenance any idea* of our dispensing with it in a treaty.”

Under this authority, Mr. Morris did, in April 1790, hold informal conferences with Mr. Pitt, then at the head of the British ministry, and with the Duke of Leeds, Secretary of the Foreign Department. But this overture was treated with as little attention as those that had preceded. They took five months to answer the simple question, whether they were disposed to negotiate a treaty of commerce; and then answered it by evasive generalities, and a professed wish for a treaty of commerce, *and more*; that is, a treaty of alliance, offensive and defensive. Mr. Morris inferred, from the Duke of Leeds's *confidential* answer, “that the council could not agree as yet, upon the answer to be given.”—“Hence I concluded, (says he,) that those who, pursuing the true interests of Great Britain, wish to be on the best terms with America, are outnumbered by those, whose sour prejudices and hot resentments, render them averse to every intercourse, except that which may immediately subserve a selfish policy.”

In communicating to Congress, on the 14th of February 1792, the result of this new attempt at a commercial negotiation, President Washington said:—“For this purpose, I authorized informal conferences with their ministers; and from these, I do not infer any disposition, on their part, to enter into any arrangements merely commercial. I have thought it proper to give you this information, as it might, at some time, have influence on matters under your consideration.” The message concludes, by observing, that the views of the British government being thus sufficiently ascertained, Mr. Morris had been directed to discontinue his communications with them.

This message was referred, by the House of Representatives, to a select committee, whose report was referred to the Secretary of State, (Mr. Jefferson,) with instruction to report to Congress the nature and extent of the privileges and restrictions of the commercial intercourse of the United States with foreign nations, and the measures which he should think proper to be adopted for the improvement of the commerce and navigation of the same.

The report of the Secretary of State upon this reference was made two years after, on the 14th of December 1793, only a few days before the retirement of Mr. Jefferson from the department.

In the mean time, great changes had occurred in the political condition of the civilized world, and in the commercial relations between the United States and the British dominions. A minister plenipotentiary to the United States had been appointed by the British government, and had been received by President Washington. A minister to the British government had been appointed in return, and was residing at London. The wars of the French Revolution had broken out, and to all the commercial restrictions with which the British government had shackled the intercourse between the United States and the British colonies, were now added the galling outrages of impressment, and a prostration of all rights of neutral navigation, by successive Orders in Council, utterly incompatible with the universally acknowledged laws of nations.

The report had, indeed, been prepared in the winter of 1792-3, before the commencement of the war between Great Britain and France, and to that time all its particular details were adapted. It stated the situation of our trade with the several maritime countries of Europe, and exhibited the features of that trade in the colours appropriate to it. It marked the offensive singularity by which the trade of the United States with Great Britain, by the ordinances of the latter, was from year to year continued at the sole discretion of the King and Council. It pointed out the injustice of those prohibitions, which excluded from the carriage to her colonies, our own productions, in our own vessels, and enlarged upon the expediency and necessity of protecting and fostering our own commerce and navigation. It expressed the earnest wish, that the principles of free trade might be established by reciprocal and friendly arrangements of negotiation; and in the event of their failure, proposed regulations of countervailing restriction, and particularly by discriminating duties of impost and tonnage.

A few days after the communication of this report to Congress, resolutions conformable to the principles recommended in it, were introduced into the House of Representatives by Mr. Madison. After a long and very able discussion, they received the sanction of the House; but the new and increasing causes of irritation to which the European war had given rise, had much abated the relative importance of questions involving merely commercial interests. The United States and Great Britain had been brought to the verge of a war; and President Washington, deeply anxious for the preservation of peace, instituted, in the summer of 1794, the special mission of Mr. Jay to Great Britain, which resulted in the conclusion of a treaty of commerce, the character of which was for many years an object of great controversy between the parties into which the country was divided. Its great merit was that for which it received little credit; the preservation of the peace, and the rescue of the country from

the infection of the French Revolution at its most terrible crisis. The commercial arrangements of this treaty were in many respects advantageous to the United States; they first opened an intercourse of trade between them and the British dominions on this continent; and by the twelfth article, as signed by the plenipotentiaries, access to their West India colonies was yielded to the vessels of the United States, of certain dimensions, and under certain conditions. These conditions, however, were not deemed acceptable by the Senate of the United States, and the treaty was ratified, with the exception of the twelfth article.

The wars of the French Revolution continued, with a short interval, upwards of twenty years, during which interval the provisions of the Navigation Act lost greatly of their interest, and the trade of the colonies was frequently opened to the vessels of the United States. Other objects absorbed the discussions between the two governments; other interests and passions came into operation, and fretted the temper of the two nations against each other, until it burst forth into open war. At the close of this war, the United States again proposed a commercial negotiation, which was accepted by the British government, with respect to its dominions in Europe; but declined with regard to its American colonies.

It is to be borne in mind, that from the organization of the present government of the United States, down to the time to which we now refer, the period of the peace of Ghent, the only measures by which the United States had counteracted the interdiction of their vessels from the British colonies, were, a very moderate discriminating duty, first of forty-four cents, afterwards increased to ninety-four cents a ton, upon foreign shipping entering the ports of the United States, and an addition of ten per cent. on the merchandise imported in foreign vessels. Even those measures were not pointed specially against Great Britain, but operated alike on all foreign vessels. The additional half-dollar tonnage had been imposed in 1804, as light money, with which there was a distinct and sufficient motive for charging the vessels of foreigners, which enjoyed the benefit of the light-houses, built and maintained at the expense of the United States along their coasts.

At the enactment of the first law, for levying a tonnage duty, Mr. Madison proposed, and strenuously urged, a discrimination of the duty between the vessels of the nations having treaties with the United States, and those of the nations having none. This proposition did not however prevail; and President Washington, in his letter of instructions to Mr. Morris, of the 13th of October subsequent, says: "The commerce between the two countries you well understand. You are apprized of the sentiments and feelings of the United States on the present state of it; and you

doubtless have heard, that in the late session of Congress, a very respectable number of both Houses were inclined to a discrimination of duties unfavourable to Britain; and that it would have taken place, *but for conciliatory considerations*, and the probability that the late change in our government and circumstances would lead to more satisfactory arrangements."

We have seen how these conciliatory considerations were then required by Great Britain, by the rejection of President Washington's friendly overture to negotiate a treaty of commerce. A milder measure of counteraction to the insulting British exclusion of our vessels, could not have been devised. Mr. Huskisson has now told us how that was received. He says, that it was likely to become seriously prejudicial to the commerce and navigation of Great Britain;—that the proper authorities, therefore, set about considering what was to be done in order to counteract it. The overture of President Washington, to negotiate upon principles of fairness and reciprocity, was before them. Why was it not accepted?—why finds it now no place in the narrative of Mr. Huskisson?—why, but because this mode of securing from serious prejudice the commerce and navigation of England, would have been by granting the *boon* of fair and equal trade to the United States? So the Board of Trade, says Mr. Huskisson, had recourse for advice to the most eminent merchants and practical men;—that is, to tory refugees, to English shipbuilders, and West India merchants;—and various projects were started on the occasion. One plan proposed to give a bounty on all goods exported to America in British ships:—this, it may be presumed, was the shipbuilder's plan. Another, to impose a duty on all articles exported from England in American ships:—this must have been the merchant's plan. A third was to *retaliate* upon the Americans, and *following their example*, to lay a *specific duty* on American ships, and on goods imported in those ships:—this was assuredly the tory refugee plan. For the Americans had *not* laid a specific duty on British ships, and on goods imported in them. They had laid a small *foreign* tonnage and impost, bearing alike upon all foreign shipping, and had purposely forborne to adopt any specific duty applicable to British ships *for conciliatory considerations*; and of this, the British government was then advised and warned. But, says Mr. Huskisson, these and various other plans, having the same object in view, on being sifted and examined, were found to be open to insuperable objections. It was shown, that without attaining their object, they would prove injurious to the commerce and manufactures of Great Britain; and all of them were in consequence abandoned.

After this inquiry, continues Mr. Huskisson, *and a long struggle to counteract the navigation system of America*, without in any degree relaxing our own, this country (Great Britain)

found it necessary to adopt the system of reciprocity, on which, since the year 1815, the commercial intercourse between the two countries has been placed.

Mr. Huskisson observes, that it would be vain to enter upon the history of the British navigation system, or of that of other countries, during the wars of the French Revolution. He therefore passes over the period between 1792 and 1815.

But in the relations between the United States and Great Britain, having reference to the colonies, several important events occurred in that interval, of which it is proper that we should take a passing notice, because they serve to illustrate the tenacious adherence of Great Britain to her navigation and colonial monopolies, and the untiring spirit of conciliation, which has, during the same time, marked the policy of the United States.

The first of these events was the commercial treaty of November 1794, negotiated by Mr. Jay. A very old and distinguished member of the Senate of the United States, has published a speech, made by him in that body during their last session, in which he says, that his opinion has been, that we have never gained much by our negotiation with Great Britain. Whatever may be thought of the spirit in which this observation was made, or of the colouring in which it is by him exhibited, it had too much foundation in truth. The character of all our negotiations with Great Britain, has borne the stamp of liberal concession on our part, and of reluctant, niggardly boon-peddling, on hers. Had the Senator above mentioned made these remarks in a spirit worthy of the station which he occupied—had his design in making them been to rouse to a sense of their own honour and duties, the body which he was addressing, and which had been a co-operating party to all those negotiations, we might have hoped the day was approaching, when some limits would be set to our complaisance, and to the exactions of our stepdame Britain. But no—from the temper manifested by the worthy Senator, it would seem, that little as we had hitherto gained by negotiation with Great Britain, that little was, in his opinion, far too much. He says, that Mr. Jay's treaty *concedes* to Great Britain the right of retaliation. This observation, coupled as it is with an injurious and unjust reflection upon Mr. Jay, might with the more propriety have been spared, because it is not sound. The treaty of Mr. Jay did not *concede* to Great Britain the right of retaliation; understanding thereby, the right of levying discriminating duties countervailing ours. Great Britain possessed that right, independent of the treaty; and Mr. Huskisson has told us, that the exercise of it had been proposed and abandoned, because, without obtaining its object, the British statesmen had found it would prove injurious to their own commerce and manufactures. But the right was *reserved* by the treaty, to Great Britain, of

levying such countervailing duties, and she exercised it. To this reservation, Mr. Jay could on no principle object; for our discriminating duties, so far as they operated upon British navigation, were counteractive to the exclusion of our vessels from the British colonial ports. Now, by Mr. Jay's treaty, the admission of our vessels to those ports was secured; with what colour of reason, then, could Mr. Jay have asked of Great Britain, at the same time, to renounce her right of countervailing our discriminating duties, the cause for which, so far as it consisted in our exclusion from the colonial ports, was no longer to continue? The honourable Senator says, that *if Mr. Jay had understood the subject*, it would have been much better to have agreed to the repeal of our discriminating duties in favour of Great Britain. But he does not himself understand the subject enough to show that Mr. Jay was authorized to agree to this repeal. Still less does he show, that it would have been agreed to by a reciprocal stipulation on the part of Great Britain. But he does show, that when, seven or eight years later, in 1801 or 1802, he made his detailed report, and proposed a repeal of our discriminating duties to all nations who would admit our vessels into their ports on equal terms with our own, he failed, because of the opposition of Philadelphia, New-York, and all the east. But if he failed in 1801, or 1802, by this united opposition of all the shipping, and almost all the commercial interest of the country, who can believe that a stipulation so excessively unpopular, would have been ratified by the consent of the Senate in 1795, had it been added to all the other obstacles which that treaty had to encounter?

The honourable Senator is not content with these unlucky thrusts at the reputation of one of the last surviving and most illustrious patriots of our revolution, and one of the brightest ornaments of our country, who, after having served his age and nation, at the hazard of life, honour, and fortune, in the most trying times and in the highest trusts, has been more than twenty-five years living in the privacy of voluntary retirement, and now, at the last stage of life, is waiting in silent composure for the final summons of his Maker to a good and faithful servant. The honourable Senator, not content with this open affront to a good and great man, before the Senate of the United States, in the unbounded liberality of his spirit of concession to Britain, gives the following exposition of the long, lingering, and yet pending controversy, between her and the United States. We give it in his own words, because we would not do him injustice; because the Senate of the United States did actually pass a bill drawn by this same Senator, in the very spirit indicated by this speech; and because we propose, by a fair and candid examination of the statements and principles disclosed in this exposition, to bring to the

test of public opinion, this *new* theory of our rights, and of the true policy of our intercourse with Great Britain:—

“I remember well (says the honourable Senator) that our New-England friends were wroth, very wroth indeed, because, when independent of Great Britain, she would not permit us to have all the advantages in her commerce that we had enjoyed when her subjects. Although I was a merchant, and should have been glad to have had them, yet I could not perceive that I had any right to be angry on the subject. I knew that all nations, with very few exceptions, held it right to monopolize the trade of their colonies; and I could not perceive that those nations who had no colonies had any right to complain. They paid no part of the expense of their support or their defence. I asked myself the question—if the United States had colonies, would they grant a free trade to all nations? I thought it very doubtful; nay, sir, I sometimes believed we would not. We prohibit the British from all commerce with our Indians. Would we consent to their participation? I believe not.

To this exposition we object:—

First. That it contains a total misstatement of the question between the United States and Great Britain, concerning the colonial trade.

Secondly. That the obvious motive of this misstatement is, to represent the United States as advancing absurd claims, and Great Britain as meeting them with just and reasonable refusal.

Thirdly. That these ridiculous pretensions on the part of the United States, were peculiarly imputable to New-England, whom the ingenious Senator styles our New-England friends.

If there ever was a New-England friend of the honourable Senator, simple or silly enough to be wroth because Great Britain would not permit us to have, when independent, all the advantages in her commerce that we had enjoyed as British subjects, he must have been a very singular personage. No public manifestation of any such sentiment was ever made in New-England. It was not the denial of the rights of British subjects, which incensed our New-England friends, it was the pretension of the Senator's Old-England friends, to restore the commerce between the United States and the colonies, which had existed before the war, and to confine it by British authority, exclusively to British vessels. This is the true statement of the question at issue between the two countries; and this is what the honourable Senator considers perfectly right on the part of Old-England, and sneers at his New-England friends for resenting. It is very clear, that the honourable Senator himself never would have resented it. He would have asked himself a question which he was unable to answer, and thence have concluded, that because the United States had no colonies, they must suffer Great Britain to regulate at her pleasure, their commerce with her colonies. If she excluded us from all commerce with them, it was only as we excluded her subjects from trading with our Indians.

But happily for our country, sentiments very different from these, were not confined to New-England. They pervaded every

part of the Union, even while the impotence of the Continental Congress prevented them from being effective:—they contributed essentially to the establishment of the Federal Constitution:—they were urged with great force by Mr. Madison, at the first session of the first Congress under the Constitution:—they partially succeeded by the establishment of the first discriminating duties, and they were pressed with all the weight of reason, and all the power of eloquence, in Mr. Jefferson's Report of December 1793, and in Mr. Madison's Resolutions of January 1794.

The Senator says, that Mr. Jay obtained by his treaty, a right to trade with the West Indies *on fair terms*. The Senate, he says, rejected that article, because it was limited to vessels of seventy tons burthen. He thinks, that with regard to this article, Mr. Jay was right, and the Senate were wrong. But his statement of the facts, even upon this point, is not correct. Besides the limitation of this boon to vessels of seventy tons, it was conceded only during the war in which Great Britain was then engaged, and for two years after; and it was shackled with a condition, that, while it lasted, the government of the United States should restrain their citizens from exporting any molasses, sugar, coffee, cocoa, or *cotton*, even from their own ports, to any other part of the world. Further, even while Great Britain was preparing and acceding to this stipulation, her admiralty courts were asserting the principle, that by the laws of nations, a neutral cannot be admitted in time of war, to any trade which she had not enjoyed in time of peace. We cannot consider these as fair terms, and we think the Senate were right in rejecting the article. It serves, however, to show the captious and unbending spirit which the British government preserve even in their concessions; and that, in the very act of yielding the trade, they reserved to themselves the power, in two years after the war, of taking it back again.

There are two points of remarkable coincidence, in the views taken by the honourable American Senator, and the British President of the Board of Trade:—in the dislike of our discriminating duties, and the admission of their powerful efficacy in the encouragement of our navigation. We have seen that Mr. Huskisson ascribes to them the absolute necessity in which Great Britain found herself, after a long struggle, and the resort to every possible expedient against them, to adopt the system of reciprocity offered by the United States. The Senator says, that in consequence of our discriminating duties, first imposed, (in 1789,) so rapid was the increase of our navigation, that in the short term of two or three years, our vessels were thought sufficient for the transportation of our own produce, and the importation of all we required from abroad.

The Senator says, that our first discriminating duties were of

ninety-four cents a ton; but upon this, as upon many other facts, his memory has betrayed him. The discriminating duties of tonnage, levied by the Act of the first Congress, were only forty-four cents per ton; and the additional half-dollar was never laid till 1804, and then under the denomination of light money.

The Senator represents the countervailing discriminating duties, levied by Great Britain, by the Act of Parliament of 1797, as of such tremendous efficiency, that after the peace of Amiens, it was nearly as good for the South-Carolina planter to pay the freight in a British ship, as to have it carried in an American vessel for nothing. After this flight of fancy, the reader will be better prepared for the curious conclusion at which the honourable Senator arrives. The consequence of this state of things, in *eighteen hundred and one*, he says, was, that when he introduced the bill relative to the discriminating duties, in *eighteen hundred and fifteen*, it passed without opposition.

Now, unfortunately for this gigantic stride of the Senator, from the cause to the effect, Mr. Huskisson has explicitly told us, that in 1815, Great Britain *found it necessary* to adopt the system of reciprocity, by the mutual abolition of the discriminating duties, because all her expedients for counteracting the navigation system of America had proved unavailing; and that it had been shown, that this very retaliation, so terrible in the eyes of the Senator, would, without attaining its object, prove injurious to the British commerce and manufactures.

It suited the views of the honourable Senator to represent, that the retaliatory discriminating duties of Great Britain, secured to her the carrying of all the tobacco and cotton of the United States, necessary for her consumption or her foreign commerce, and gave her a decided advantage in the carrying of all the other exports of the United States, necessary to her consumption—and he says, that the reason why the operation of her retaliation was not felt by us, was that Great Britain was then, and for some years after, engaged in war. But *he* was aware of the consequence, whenever Great Britain should be at peace, and therefore made his detailed report to the House of Representatives, in 1801 or 1802, proposing a repeal of our discriminating duties to all nations who would admit our vessels into their ports on equal terms with their own. He failed then, because of the opposition of Philadelphia, New-York, and all the east. But the treaty of Amiens opened the eyes of the eastern merchants, to see what *HE* had discovered by the gift of commercial second-sight—and *the consequence was*, that when, fourteen years afterwards, *he* introduced the bill relative to the discriminating duties in 1815, it passed without opposition.

But the passage of the worthy Senator's bill, could not take away these all-powerful British retaliatory duties. If the effect

of these had been so transcendent after the treaty of Amiens, and produced such political experiences of conversion, and such indelible impressions upon the memory and the will of the eastern merchants—how happened it that the British government so readily agreed, in 1815, to the mutual abolition of the discriminating duties, *in the intercourse between the United States and the British dominions in Europe?* Was comprehension so dull, or memory so short, on the part of the British government, as to the wonderful effects of their retaliatory duties, when they were at peace, that they chose the very moment when they had just made peace, to abandon them? The Senator says, we never gained much by negotiation with Great Britain—but if his estimate of the power of her retaliatory duties, were any thing but a figment of his imagination, we did gain a point of immeasurable magnitude, in the convention of 1815, by obtaining her abandonment of them.

The truth is, that the mutual abolition of the discriminating duties, proposed by the Senator's bill, and stipulated by the convention of 3d July 1815, while confined, as in that compact it was, to the commerce between the United States and the *European* dominions of Great Britain, did operate, and in the nature of things must operate, in favour of the shipping of Great Britain, and against that of the United States, whenever, at the same time, the commerce between the United States and the British colonies in America, is carried exclusively in British vessels. For the ships of the two nations, being in our ports on terms, in other respects, of equal competition, the British, possessing and exercising the monopoly of all our trade with the colonies, acquire thereby an advantage which immediately extends itself to the direct trade with Europe. This, the Senator overlooks altogether, but it has never been overlooked by the British government; and it is the true secret of the liberality with which they have always been ready to relinquish, on their part, all discriminating duties. From the first Order in Council, of July 1783, after the peace of 1782, which confined exclusively to British vessels, the trade between the United States and the British West Indies, till the establishment of the Constitution of the United States, more than half the commerce of the United States with the island of Great Britain, was carried in British vessels. The discriminating duties of July 1789, formed the first counterpoise to the advantages enjoyed by the British tonnage, in their monopoly of the colonial trade; and this counterpoise was so effective, that a report was made by the Lords of the British Privy Council, in 1791—a document referred to in Mr. Huskisson's speech of 12th May 1826. They advised a negotiation for the abolition of the discriminating duties of the United States, upon principles of reciprocity. But so well did they understand

the effect of the colonial trade upon this reciprocity, that they said, if Congress should propose, (as they certainly will,) that the principles of equality should be extended to the ports of our colonies, or islands, and that the ships of the United States should be there treated as British ships, it should be answered, that this demand cannot be admitted, even as a subject of negotiation.

In July 1797, an Act of Parliament established the retaliatory discriminating duties, which were increased in 1798, and again in 1802, with the addition of an export duty—these constituted, altogether, a mass of duties imposed upon American shipping, far more than countervailing the discriminating duties which had been imposed by us. They naturally had, therefore, combined with the colonial monopoly an unfavourable effect upon our tonnage, and yet their operation was so far from proving satisfactory to the British government, that an Act of Parliament was passed in 1802, authorizing the King to relinquish the countervailing duties, levied on the shipping and merchandise of the United States:—an authority to be exercised in the event of a similar relinquishment of the discriminating duties on the part of the United States—an event for which, however, they were not then prepared.

In the spring of 1803, the war between France and Great Britain recommenced; and in the autumn of the same year, the commercial articles of Mr. Jay's treaty expired,—because two years had elapsed since the signature of the treaty of peace at Amiens. The state of war to which the treaty had been adapted, was still the same, although the intervening peace had, by the terms of the treaty, brought it to a close. It was suffered to expire by its limitation; and in 1804, the additional fifty cents per ton, was levied by the United States upon foreign shipping, under the denomination of light money.

In 1805, the British government determined to break up the commerce between the United States and the colonies of all the nations with which they were at war. This determination was carried into effect, by the sudden revival of an old rule devised in her admiralty courts at the commencement of the war of 1755, and by the seizure, without previous notice, of between one and two hundred American vessels engaged in that trade. This gave rise to the joint negotiation by Mr. Monroe and Mr. William Pinkney, of a commercial convention in 1806. The instructions of those commissioners, with reference to the trade with the British colonies, was, that they should insist on the principle of reciprocity; and the result was, that in the sixth article of the treaty signed by Messrs. Monroe and Pinkney, with Lords Holland and Auckland, on the 31st of December 1806, it was declared that the high contracting parties, had not been able then, to arrange *any* commercial intercourse between the territories

of the United States and the British West India Islands; wherefore they agreed, that, until that subject should be regulated in a satisfactory manner, each of the parties should remain in complete possession of its rights, in respect to such an intercourse.

But while the British government adhered thus rigorously to the exclusion of the vessels of the United States from all participation in the commerce with their American colonies, they had opened the ports of their West India islands to the shipping and the productions of all foreign *European* sovereigns and states; that is, to all the colonies of other European nations in this hemisphere. The several Acts of Parliament, which, from the year 1787, had been enacted to this effect, were consolidated in one, by the Act of 27th June 1805, passed at a time when Great Britain was at *war* with almost every European sovereign possessing American colonies, and precisely cotemporaneous with her new-vamped rule of the war of 1756, to destroy the commerce of the United States with those same colonies.

On the 30th of June 1808, while the embargo law of the United States was in force, another Act of Parliament authorized the governors of the provinces in British North America, to open their ports for the importation of articles from the United States, for re-exportation to the West Indies.

And on the 1st of July 1812, in contemplation of the *war*, which was, in fact, then already declared between the United States and Great Britain, the Island of Bermuda was, by Act of Parliament, opened for trade both of export and import with the United States, in any foreign ship or vessel, belonging to any country in amity with Great Britain.

In the same year, and in the midst of the war, an Order in Council of the 26th of October, authorized the governors of all the West India islands, and of the British lands or territories on the continent of South America, to grant licenses for trade both of importation and exportation, in any unarmed vessel not belonging to France. In the instructions sent to the governors with this Order in Council, it was expressly stated to have been issued "in consequence of the existing hostilities between His Majesty and the United States of America."—The following paragraph of the same instructions, eminently characteristic of the British policy towards the United States, in peace and in war, may properly close our review of the transactions of the two governments, in relation to colonial trade, in that interval between 1792 and 1815, which Mr. Huskisson has thought proper to over-leap:—

"Whatever importations are proposed to be made, under the Order, from the United States of America, should be, by your licenses, confined to the ports of the **EASTERN STATES EXCLUSIVELY**, unless you have reason to suppose, that the object of the Order would not be fulfilled, if licenses are not also granted for the importations from the other ports in the United States."

In February 1783, William Pitt, Chancellor of the Exchequer, introduced into the House of Commons a bill for regulating the commerce between the United States of America, and all parts of the British dominions—a bill founded on principles of justice and reciprocity—conciliatory towards the United States—eminently adapted to promote the prosperity of the British colonies, and exactly conformable to that freedom of commerce, which, in the intercourse between nations, looks to the mutual interest of the parties, and not to the exclusive advantage of one, at the expense of the other.

While this bill was under discussion, the opposition to the ministry obtained from the House of Commons a vote of censure upon the peace. The ministers resigned, and were succeeded by that which is known in the history of the time, emphatically, by the name of the Coalition Ministry.

Mr. Pitt's bill was laid aside, and in its stead was substituted a temporary Act, submitting the regulation of the commerce with the United States to the arbitrary discretion of the King.

Under this Act, in July 1783, an Order in Council placed the commerce between the United States and the British dominions in Europe, on the ordinary footing of the commerce of foreign nations; but subjected the commerce between the United States and the British colonies in America, to numerous restrictions, injurious alike to the United States and the colonies, and interdicted the trade altogether, excepting in British vessels. This Act and Order in Council, were continued by temporary Acts from year to year, until 1788, when the trade was established on the principles of the Order, by a permanent Act of Parliament, leaving however the trade between the United States and the colonies, to be opened and closed still at the pleasure of the King.

Mr. Pitt's bill had been professedly founded in contemplation of the subsequent regulation of the commerce between the two countries, by a liberal treaty.

The definitive treaty of peace was signed at Paris, on the 3d of September 1783, under the coalition ministry, and in the identical words of the preliminary articles of the preceding November, upon which the House of Commons, under the auspices of the same coalition, had passed a vote of censure.

The ministers of the United States, who signed the preliminary articles and the definitive treaty of peace, had also powers for concluding a treaty of commerce, upon the principles of liberal reciprocity. The British ministers declined negotiating upon commerce.

In 1784, a special commission was constituted by the American Congress, consisting of John Adams, Benjamin Franklin, and Thomas Jefferson, to negotiate treaties of commerce with

all or any of the powers of Europe or of Africa. This commission sat nearly a year at Paris, and communicated their powers to the British government, with a proposal to negotiate, which was evaded on the part of Great Britain.

In 1785, Mr. Adams was appointed minister plenipotentiary of the United States to Great Britain, with a full power to negotiate a treaty of commerce. He resided three years at London, during which the British government declined treating. The permanent Act of Parliament, excluding the vessels of the United States from all the British colonial ports, was passed precisely at the period of his return to America.

Here were three distinct and successive invitations to treat of commerce, upon fair and equal terms, on the part of the United States, evaded or declined on the part of Great Britain.

In 1789, the Constitution of the United States was established, and Congress levied a small discriminating duty of impost and tonnage, upon *foreign* shipping entering the ports of the United States. A discriminating duty, specially bearing upon British shipping, was proposed; but was discarded upon conciliatory considerations.

President Washington renewed the proposal of a commercial negotiation, and again received a dilatory and evasive answer.

In 1791, the British Board of Trade, and the shipbuilders, took the alarm at the effects of our discriminating duties, but could devise no means of successfully countervailing them.

In 1793, a war broke out between France and Great Britain; and, for a short time, the latter undertook to annihilate *all* neutral commerce with France, and all colonial trade with her West India possessions. This plan defeated itself by its own violence.

In 1794, Mr. Jay's treaty was concluded. This Act opened an intercourse between the United States and all the British colonies in America. But with regard to the North American colonies, this boon was connected with a condition, which gave to the British authorities a control over the Indians within our territories. The purposes for which this was intended, when the war came on, were disclosed by the scenes at the river Raisin. The concession of a share in the navigation to the West Indies, was clogged with a stipulation to prevent the people of this Union from exporting their own cotton, from their own soil, to any part of the world. This boon was rejected. But a Senator of the United States has been found, in 1827, willing to say, that it ought to have been accepted.

In 1797—1798, countervailing discriminating duties were imposed by Act of Parliament, followed by an export duty of four per cent., levied upon *neutral* American vessels, under the guise of defraying the expense of convoys.

In September 1801, the peace of Amiens was concluded, and in April 1803, the war broke out afresh. The commercial articles of Mr. Jay's treaty expired the same year.

In 1805, Great Britain renewed the attempt to demolish the commerce between the United States and the colonies of all the other European nations.

In 1806, this attempt was disclaimed; and a treaty of commerce was signed by the plenipotentiaries of the two countries, at London. But they declared, that they could not agree upon any arrangements of commerce relating to the trade between the United States and the West Indies, and none were made.

In December 1807, the Congress of the United States passed the Embargo Law, and in June 1808, the British government authorized the governors of the North American provinces to open their ports to American vessels.

In 1812, the Congress of the United States declared war against Great Britain, and immediately Great Britain admitted the vessels of the United States to the island of Bermuda; which was made a place of deposit for all the other islands.

In 1814, the peace of Ghent was concluded.

Such is the summary of the course of policy of the two countries, concerning the colonial trade, for a period of thirty years—And what is the aspect they present? On the part of the United States, a perpetual extension of the hand of friendship and reciprocity; continual efforts to arrange the whole subject by treaty; and a final resort, in self-defence, to the mild and scarcely adequate measure, of a small discriminating impost and tonnage duty on all foreign shipping. On the part of Great Britain, a first fair and honourable project of justice and reciprocity, defeated by the fall of the ministry to which its author belonged, and thenceforward colonial monopoly and the Navigation Act, borrowed by Charles the Second from the Rump Parliament:—a ravenous grasp by legislation, at all the profits of a trade indispensable to her colonies, and a sordid struggle to exclude the United States, one of the parties to the trade, from all participation in its profits.

Among the curious illustrations of the British policy, in the regulation of this interest, is, that she was compelled to abandon in war, the interdict which she had ordained in peace. From the 2d of July 1783, till the American embargo of 1807, the vessels of the United States were excluded from admission into the British colonial ports. The American embargo opened them all. The war produced the same effect. So necessary to the colonies was the trade, that no sooner was it interdicted on the part of the United States in British vessels, than they were obliged to open it in those of America. So that, contrary to all just principles of the law of nature and of nations, Great Britain excludes

the vessels of the United States in time of peace, and invites them in time of war.

On the 3d of July 1815, a convention was concluded between the United States and Great Britain, by which the principle of reciprocity, with regard to duties of impost and tonnage, which had been offered by the Act of Congress of the 3d March preceding, was adopted as the rule of commercial intercourse between the United States and the dominions of Great Britain in *Europe*. Mr. Huskisson explicitly avows, that it was adopted by Great Britain only from *necessity*, and not till after a long struggle to counteract the navigation system of America, without in any degree relaxing her own. And of the principle so recognised, and thus limited, we may now safely affirm, that the whole advantage was on the side of Great Britain; for at the same time that she secured to all her vessels, engaged in the direct trade with the United States, all the advantages in their ports, enjoyed by their own shipping, she returned, with unmitigated rigour, to the excluding and exclusive navigation with the colonies;—insomuch, that the governor of the island of Tobago, having exercised his authority to admit vessels of the United States there, after the 31st of March 1815, received from Earl Bathurst, the Secretary of State for the colonies, a severe reprimand, and a positive prohibition to the admission of any American vessel to entry thereafter; and this despatch of Lord Bathurst was dated the 30th of May 1815, at the very time when his under secretary, Goulburn, was in conference with the American commissioners, upon the negotiation of the convention of reciprocity. That the whole advantage of the mutual abandonment of discriminating duties was on the side of Great Britain, is apparent, as well from the character of the measure, as from the result of prior experience. It placed the navigation of the two nations, in their direct commercial intercourse, on a footing of equal competition. The discriminating duties had originally been levied by the United States. They were counteractive to the British monopoly of the colonial trade. But Great Britain had levied countervailing discriminative duties. This, indeed, restored to her shipping the benefit of the monopoly—but these duties upon duties, including an export duty upon her own productions, became grievous burdens upon the trade itself, the importance of which was greater to Britain than to the United States. The balance of the trade was large, and invariably flowed into the lap of Britain. A tax upon the trade, by reducing this balance, proportionably reduced her profits; and the tendency of aggravated duties, was to diminish the commerce itself. Hence, it had been found, as Mr. Huskisson now attests, that the countervailing duties of Great Britain, without attaining their object, proved injurious to her commerce and manufactures.

The equalization of the duties, therefore, was entirely to her advantage. It was still more so, in connexion with her colonial monopoly: since all the benefits of the double or circuitous voyage from Great Britain to the United States, thence to the colony, and thence back to Great Britain, were secured to her own ships.

The effects of this stipulation, combined with the colonial exclusions and monopoly of Great Britain, were soon felt, both by the commercial and navigating interests of the Union. In the winter of 1815-16, petitions were presented to Congress for the protection of those interests; and on the 5th of February 1816, Mr. Cyrus King, a member of the House of Representatives, from Maine, moved the following resolution:—

Resolved, That the committee on Foreign Relations be instructed to inquire into the expediency of excluding from the ports of the United States, all foreign vessels, owned in, coming from, bound to, or touching at, any of His Britannic Majesty's possessions in the West Indies, and in the continent of North America, from which the vessels of the United States are excluded, and of prohibiting, or increasing the duties, on the importation in foreign vessels, of any articles, the growth, produce, or manufacture of such possessions.

This resolution, after undergoing much discussion, was laid on the table, and not further acted on during that session of Congress.

In the interval between that and the ensuing session, a new overture was made to the British government, to regulate the subject upon equitable principles of reciprocity, by negotiation, and was again declined.

The following extract from President Madison's message to Congress, of 3d December 1816, exhibits a correct view of the state of our navigation, under the double effect of the convention of 3d July 1815, and of the British exclusion of our vessels from the colonial ports.

"The depressed state of our navigation is to be ascribed, in a material degree, to its exclusion from the colonial ports of the nation most extensively connected with us in commerce, and from the indirect operation of that exclusion.

"Previous to the late convention at London, between the United States and Great Britain, the relative state of the navigation laws of the two countries, growing out of the treaty of 1794, had given to the British navigation a material advantage over the American, in the intercourse between the American ports and British ports in Europe. The convention of London equalized the laws of the two countries relating to those ports; leaving the intercourse between our ports and the ports of the British colonies, subject, as before, to the respective regulations of the parties. The British government enforcing now, regulations which prohibit a trade between its colonies and the United States, in American vessels, whilst they permit a trade in British vessels, the American navigation loses accordingly; and the loss is augmented, by the advantage which is given to the British competition over the American, in the navigation between our ports

and British ports in Europe, by the circuitous voyages enjoyed by the one, and not enjoyed by the other.

"The reasonableness of the rule of reciprocity applied to one branch of the commercial intercourse, has been pressed on our part, as equally applicable to both branches; but it is ascertained that the British cabinet declines all negotiation on the subject: with a disavowal, however, of any disposition to view in an unfriendly light, whatever countervailing regulations the United States may oppose to the regulations of which they complain. The wisdom of the legislature will decide on the course which, under these circumstances, is prescribed by a joint regard to the amicable relations between the two nations, and to the just interests of the United States."

The whole substance of the controversy between the United States and Great Britain, concerning the trade between them and her colonies, from the peace of 1782 to this day, is comprised in these paragraphs.

During that session of Congress, on the 27th of January 1817, a bill was introduced into the House of Representatives, to prohibit all commercial intercourse with ports or places, into, or with which, the vessels of the United States were not ordinarily permitted to enter or trade.

This bill was also laid on the table, and not resumed during that session. An Act concerning the navigation of the United States, was however passed on the first of March 1817, by the effect of which, British vessels were prohibited from importing into the United States any articles other than those which were of the growth, produce, or manufacture of the British dominions; and by two several Acts passed at this session, on the 14th of January and on the 3d of March 1817, a tonnage duty of two dollars a ton, was levied on all foreign vessels entering in the United States, from any foreign port or place, to and with which vessels of the United States were not ordinarily permitted to enter or trade.

These were but notes of preparation:—yet they did operate to induce some relaxation of the inflexible determination of the British government to reject all negotiation upon the subject. In the summer of 1817, four articles were communicated by the British government to that of the United States, containing a proposal, not for discussion, but to be accepted or rejected in a mass, and without qualification. The first of these articles extended to the United States the right of admission with vessels of one deck, into the free ports of the West Indies, which had already been granted by Acts of Parliament of 1805 and 1808, to the subjects of all European sovereigns. It was barely the removal of an odious and unjust discriminating exclusion, which for many years had been made to bear against the United States alone. But this article was qualified by a reservation on the part of Great Britain, of a right to impose higher duties upon the articles imported in vessels of the United States, than upon the same articles from the British colonies. The second article gave

a like partial admission of the vessels of the United States into the island of Bermuda; and the third admitted them into Turk's Island, in quest of salt. The fourth article stipulated a free commercial intercourse between the citizens of the United States and the British North American provinces, and a free access, in fact, to the Indians within our territories. It was obvious, that by reserving the right of imposing prohibitory duties upon the articles importable in our vessels, connected with a stipulation precluding the United States from the power of interdicting or of surcharging the intercourse with the northern provinces, Great Britain would have kept in her own hands the exclusive control of the trade. The articles were not accepted: they were communicated to both Houses of Congress, which, with great unanimity, concurred in the propriety of their rejection. On the 18th of April 1818, Congress passed the Act concerning navigation, which, from and after the 30th of September of that year, closed the ports of the United States against every British vessel coming from ports, by the ordinary laws of navigation and trade closed against the vessels of the United States.

This was the first Act by which the United States had resorted to the counteraction of a direct interdict, after a forbearance of five-and-thirty years; and as if the contrast between the temper of the two governments needed further illustration, from this forbearance a British minister has had the hardihood to raise an inference, that Great Britain had acquired a prescriptive right to the exclusive navigation of the trade; and that while a British prohibition was only an exercise of a strict right, the American counter-prohibition was an injury to her.

The Act itself was preceded by a report from the committee of the House of Representatives, to whom the part of the President's message relating to the intercourse with the British colonies had been referred, to that body, with statements of the amount and value of the trade; and with an essay on the practical effect of the convention of 3d July 1815, written by an eminent merchant of Philadelphia, and presenting a view of the whole subject, prepared upon many years of experience, and unanswerably conclusive, both with regard to the rights of the United States, and to the policy required by their interests.

And in the Senate, the passage of the Act was rendered memorable by an eloquent speech in support of it, by Rufus King, in which the policy of both governments, from Mr. Pitt's abortive bill of April 1783, was candidly reviewed.

One immediate effect of this Act, was an Act of Parliament, passed on the 23d of May 1818, permitting the importation into the West India colonies, and to those on the continent of South America, of tobacco, rice, grain, peas, beans, and flour, in British vessels, from any colony or possession in the West Indies, or

on the continent of America, under the dominion of any foreign European sovereign or state.

In the summer of this same year, (1818,) was negotiated at London the renewal of the convention of 3d July 1815: and this subject of colonial trade formed an important article in that negotiation, upon which the parties were not able to come to any agreement. The British government assented, indeed, to the general principle, that the trade should be established on the basis of perfect reciprocity; and the plenipotentiaries of the United States offered to agree to articles founded thereon: they admitted restrictions upon the number of ports to which the vessels of the United States should be admitted: they consented that the trade should be confined to a small number of specific articles, subject to duties at the discretion of the parties, and importable in vessels of a limited description and tonnage: they required only one condition of reciprocity, which was the exclusion of all discriminating duties and charges, whether upon the vessel or the cargo; that is, that the vessels of either party, engaged in the trade, and the articles carried by them, should be subject to no duties or charges to which those of the other party should not be equally liable.

The British government acceded partially to these principles; but they insisted upon reserving the right of surcharging indefinitely with duties, the articles which might be imported into the West Indies in American vessels, over and above the duties levied upon articles of the same description imported in British vessels; and at the same time they made it an indispensable condition, that the same articles should be received in the northern provinces of this continent, as into the West Indies. To the reservation of the right, unqualified, of imposing these discriminating duties in favour of the produce of the British colonies, the American negotiators were not authorized to accede, and they received the proposition for reference to their own government. The convention of 20th October 1818, was therefore concluded, without satisfactory adjustment of this interest.

Together with that convention, the instructions to the American negotiators, the protocols of their conferences with the British plenipotentiaries, and their whole correspondence with that government, were laid before the Senate of the United States; a committee of which body reported an opinion, inclining to allow time for the experiment of our own Navigation Act of 1818, and to suffer the negotiation on the subject to remain as it was. They suggested, at the same time, the necessity of reinforcing the Navigation Act, by cutting off the trade with New-Brunswick, Nova Scotia, and Bermuda; and intimated the probability that the success of that measure would make it our true policy

to adhere to the law, and decline any convention with Great Britain touching the colony trade.

This report was made in February 1819, just at the close of the session of Congress. On the 7th of May of the same year,* a letter of instruction from the Secretary of State to Mr. Rush, reviewed fully all the proposals which had been discussed relating to the colonial trade, at the negotiation of the convention of 20th October 1818, and authorized him to propose two articles, presenting a compromise between the proposals which had been offered by the respective plenipotentiaries of the two parties, at the negotiation of the convention. The proposal was made in June, and on the 15th of September was, by the British government, definitively and peremptorily rejected. The objections to the articles which had been proposed by the British plenipotentiaries, were three:—

First. The phraseology which they had used, in opening the trade, while altogether the same in words, was very different in its effect. British vessels from the West Indies were to be admitted into any of the ports of the United States, *to which other foreign vessels were permitted to come.* So, vessels of the United States were to be admitted from their ports into any ports of the British colonies in the West Indies, *to which other foreign vessels were permitted to come.* The language, in both cases, was identically the same; but what would have been the effect of the stipulation? The ports of the United States were open to foreign vessels of all nations. No conceivable state of things could arise, under which the foreign vessels would generally be prohibited from coming to them. The admission to them, of British vessels from the colonies, under this stipulation, would have been permanent and irrevocable, so long as the stipulation should continue. The admission of other foreign vessels to the British colonial ports, was permitted only by special Acts of Parliament, and was limited to certain ports enumerated by name. Those Acts of Parliament were repealable at the pleasure of that body; and in the event of such repeal, the proposed stipulation in favour of the vessels of the United States, would have been rendered of no effect.

Secondly. The British plenipotentiaries had declared that their two articles must be taken together, or not at all. That they could not sign the article for the admission of American vessels to the West Indies, unless with the article for their admission to the North American colonies; and their list of articles admissible to the latter, was much more comprehensive than that of the articles importable into the West Indies.

* Documents H. R. U. S.—1st session of 19th Congress—printed by order of the House, 22d April 1820.

Thirdly. They reserved the right of levying heavier duties upon the articles admitted in vessels of the United States into the West Indies, from the United States, than upon the same articles imported from their own colonies.

It is obvious, that, by the first of these provisions, the British government would have obtained an irrevocable stipulation on our part, securing the participation of their vessels in the trade; while on theirs, it would have been subject at all times to regulation by an Act of Parliament:—that by the second, they compelled their West India colonies to receive many articles of the trade, through their northern provinces, and of course, exclusively in their vessels:—and by the third, they kept again the keys of the whole trade in their own hands, reserving the power to modify their discriminating duties according to the demands of the market, and their own interests.

These views were presented to the British government, with the proposed modification of the articles presented to them in June 1819. The proposed articles were however peremptorily rejected, on the sole ground that Great Britain was not prepared to depart from her established system of colonial monopoly.

At the session of Congress immediately succeeding, President Monroe, by his message of 7th December 1819, informed that body of the result of this overture, and recommended to them the consideration, whether further prohibitory provisions, in the laws relating to this intercourse, might not be expedient. Conformably to this recommendation, on the 15th of May 1820, the Act supplementary to the Act concerning navigation was passed.

These two Acts formed an exact counterpart to the British interdict of trade between the United States and the British colonies, in vessels of the United States. It was then, for the first time, that the British system had been met in its full extent, and its effect was very soon discovered in a signal modification of the British colonial system itself.

An Act of Parliament, of 24th June 1822, to regulate the trade between His Majesty's possessions in America and the West Indies, and other places in America and the West Indies, repealed the whole series of the laws which had been enacted since the peace of 1783, and formally opened certain enumerated ports, in each of the colonies, for the importation of a small list of enumerated articles, in British or foreign vessels;—but it subjected them to a heavy tariff of duties. It admitted only articles of the growth, produce, or manufacture of the country to which the vessel belonged—and it allowed the admission of vessels only coming directly from the ports of the country to which they belonged, and exacted bonds for their return directly to the same. And it authorized the King in Council to interdict the

trade to the vessels of any country, which should not extend to British vessels and subjects the privileges of *that Act*.

This phraseology disclosed, in no very equivocal language, the same spirit which has been so often manifested by Mr. Canning, in the late discussions of this controversy. It may be properly termed the domineering spirit. It turns upon the pretension, that the whole regulation of the concern must be provided for exclusively by British legislation;—that so long as they choose to interdict the trade, all foreign nations must submit in passive acquiescence;—that as soon as they think proper to open their ports, foreign nations must receive it as a boon, and hasten, without a moment's delay, to grant to British vessels and subjects all the privileges of *that Act*—in default of which, the King and Council are authorized to renew the interdict.

The session of Congress of 1822, terminated on the 8th of May, about six weeks before the passage of this Act of Parliament; and so anxious was the government of the United States for the amicable adjustment of this interest, and so ready to concur in any arrangement which should be founded on the principle of reciprocity, that, by an Act passed on the 6th of May, the President was authorized, on satisfactory evidence being given to him that the British colonial ports in the West Indies had been opened to the vessels of the United States, to issue his proclamation, opening the ports of the United States to British vessels from the colonies, subject to such reciprocal rules and restrictions as he should make and publish; any thing in the Navigation Acts of 1818 and 1820 to the contrary notwithstanding. And immediately after the passage of the Act of Parliament was known, the proclamation of the President, of the 24th of August 1822, was issued accordingly.

But the restrictions under which the Act of Parliament had opened the trade, were necessarily to be met by countervailing restrictions on the part of the United States. By the Act of Parliament, two of the three points upon which the British government had insisted in the negotiation of 1818, and to which they had adhered in 1819, were abandoned. The ports to which the vessels of the United States were to be admitted, were enumerated by name; and the articles admissible were the same in all the ports. But the indirect trade was still interdicted; and the foreign shipping were admissible only from their own ports, and were compelled to return directly to them. The list of articles admissible to importation was scanty, and they were subject to a schedule of duties, equivalent to ten, fifteen, or twenty per cent. *ad valorem*, from which the like articles, when imported from the North American to the West India colony, were exempted.

The proclamation, in opening the ports of the United States to British vessels from the colonies, prescribed that the vessels

from the West Indies should be admissible with cargoes only of West India produce, and those from the continental provinces, only with articles of the growth, produce, or manufacture of those provinces. The vessels and cargoes were also subject to the alien duties of tonnage and impost. These restrictions became immediately a subject of complaint, and of correspondence between the two governments. For a very partial and invidiously restrictive admission of American vessels, under a heavy burden of discriminating duties upon their cargoes, the British claimed an entire, unlimited admission of British vessels, upon the same terms of duties with the vessels of the United States themselves, and free from all discriminating duties whatever. But in the course of that correspondence it appeared, not only that American vessels would not by the Act of Parliament be admitted into the colonial ports on the same terms with British vessels, but that they would be burdened with sundry additional duties and charges, by Acts of the several colonial and provincial legislatures.

The proclamation was limited to the close of the then ensuing session of Congress; and on the 1st of March 1823, Congress passed the Act, suspending the operation of the two Acts concerning navigation, of April 1818, and of May 1820, and declaring the ports of the United States open to British vessels coming from the ports enumerated in the British Act of Parliament. It provided that British vessels should be confined to the direct trade, as those of the United States had been by the British laws; and it required the additional tonnage and alien impost duties. But it offered to discard all discrimination, if the British government would do the same. It authorized the President, in the event of his receiving satisfactory proof that all the discriminating duties and charges, levied upon vessels of the United States and their cargoes in the colonial ports, were removed, to issue his proclamation, admitting British vessels and their cargoes from the colonies, on the same terms with those of the United States.

While this Act was on its passage, Mr. Stratford Canning, the British minister residing at Washington, to whom it had been communicated, objected, that by requiring that no higher duties or charges should be levied in the British colonial ports, on the cargoes of vessels of the United States, than upon the like goods, wares, and merchandise, imported into the same colonial ports from *elsewhere*, it might be construed to include the importations into the West India ports from the North American provinces. He was informed, that this was the intention of the Act. It was precisely the point upon which the negotiators of the convention of 1808 had parted,—the point upon which the government of the United States had always insisted, as the only condition upon which they would accede to a free

trade between the United States and the British colonies, in the vessels of both nations.

In opening the trade by an Act of Parliament, the British government had established that discrimination of duties, which, seeming to favour only the productions of their own colonies, secured, in fact, a predominant advantage in favour of their own shipping. The design of the British government was to obtain, under colour of this opening of their colonial ports to the vessels of the United States, that ascendancy which they had so long and fruitlessly struggled to secure by interdiction; but the pretension, that for this half-opening of their ports, their vessels from the colonies should not only be admitted into ours, but exempted from the foreign tonnage and impost, was as unreasonable as it was incompatible with reciprocity. This was amply shown in the correspondence at the time, and particularly in the letter of instruction from the Secretary of State to Mr. Rush, of 23d June 1823, which contains a full and unanswerable exposition of the disadvantages imposed upon the shipping of the United States, by the Act of Parliament of June 1822, and of the necessity incumbent upon the United States, of opening the trade on their part, with corresponding restrictions upon the British shipping.

A negotiation upon that, and upon various other subjects of interest to the two nations, was in that year commenced by Mr. Rush, with Mr. Stratford Canning and Mr. Huskisson. A convention for the suppression of the slave trade was concluded, but having been ratified only partially on the part of the United States, and clogged with additional conditions by Great Britain, finally failed of ratification.

In the conferences between Mr. Rush and the British plenipotentiaries, the subjects of the colonial trade, and of the operation of the Acts of Parliament and of Congress by which it was then regulated, were discussed; and mutual propositions were made for an arrangement by convention, which should establish it on principles of reciprocity. The mutual abolition of all discriminating duties on both sides, was acceded to, with an exception, upon which the British plenipotentiaries inflexibly insisted, and to which Mr. Rush was not authorized to agree. It was, that upon all the articles of importation from the United States into the West India colonies, duties should there be levied, to which the like articles, imported from the North American provinces, should not be subject. The negotiation was suspended in August 1824, with an express understanding that it should at an early period be resumed.

In August 1823, the British government had imposed a tonnage duty of four shillings and three pence sterling a ton, and an extra duty of ten per cent., upon the cargoes of all American vessels trading to the colonies. This was imposed as a countervail-